

CATEGORY III CONTRACT
UNITED STATES DEPARTMENT OF THE INTERIOR
NATIONAL PARK SERVICE

Sleeping Bear Dunes National Lakeshore

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Ferry/Tour Boat Services

CONCESSION CONTRACT NO. CC-SLBE005-19

Manitou Island Transit, Inc.

PO Box 1157 Leland Michigan 49654

Doing Business As Manitou Island Transit

Covering the Period March 15, 2019 through March 15, 2029 ¹

CONCESSION CONTRACT**TABLE OF CONTENTS**

SEC. 1.	TERM OF CONTRACT	1
SEC. 2.	SERVICES AND OPERATIONS	1
(a)	Required and Authorized Visitor Services	1
(b)	Operation, Maintenance and Quality of Operation	1
(c)	Operating Plan	1
(d)	Rates	1
(e)	No Capital Improvements	2
SEC. 3.	CONCESSIONER PERSONNEL	2
SEC. 4.	ENVIRONMENTAL	2
SEC. 5.	FEES	3
(a)	Franchise Fee	3
(b)	Payments Due	3
(c)	Interest	3
SEC. 6.	INSURANCE	3
SEC. 7.	RECORDS AND REPORTS	3
(a)	Accounting System	3
(b)	Annual Financial Report	4
(c)	Other Reports	4
SEC. 8.	SUSPENSION, TERMINATION, OR EXPIRATION	4
(a)	Termination and Suspension	4
(b)	Requirements in the Event of Suspension, Termination or Expiration	5
SEC. 9.	ASSIGNMENT, SALE OR ENCUMBRANCE OF INTERESTS	5
SEC. 10.	GENERAL PROVISIONS – SEE ADDENDUM 1.	5

Attachments:

Addendum 1	General Provisions
Exhibit A	Nondiscrimination
Exhibit B	Operating Plan
Exhibit C	Assigned Government Personal Property
Exhibit D	Insurance
Exhibit E	Transition to a New Concessioner
Exhibit F	Intellectual Property Licensed Marks

This Contract is made and entered into by and between the United States of America, acting in this matter by the Director of the National Park Service, through the Regional Director of the Midwest Region, hereinafter referred to as the "Director", and Manitou Island Transit, LLC, (hereinafter referred to as "Concessioner"), a Limited Liability Company, doing business as Manitou Island Transit, LLC under the authority of 54 U.S.C. §§ 101911 et seq., including 54 U.S.C. §§ 100901 et seq., and other laws that supplement and amend these laws. The Director and the Concessioner agree:

SEC. 1. TERM OF CONTRACT

This Contract will have a term of ten years from March 15, 2019 until its expiration on March 15, 2029.

SEC. 2. SERVICES AND OPERATIONS

(a) Required and Authorized Visitor Services

(1) The Concessioner must provide the following required Visitor Services within the Area:

	Service	Location
i.	Scheduled ferry transportation services to North Manitou Island	Specifics of the services are detailed in the Operating Plan
ii.	Scheduled ferry transportation services to South Manitou Island	Specifics of the services are detailed in the Operating Plan.

(2) Authorized Visitor Services. The Concessioner is authorized but not required to provide the following visitor services during the term of this Contract:

	Service	Location
i.	Motor tours on approved routes on South Manitou Island	Specifics of the tours are detailed in the Operating Plan
ii.	Sale of snacks, beverages (including alcoholic beverages), limited souvenirs, and convenience items	On board the vessel, specifics are detailed in the Operating Plan
iii.	Charter Service trips	Specifics of the tours are detailed in the Operating Plan
iv.	Transportation of Kayaks, Stand-up Paddleboards, and Canoes to the Islands	On board the vessel, specifics are detailed in the Operating Plan

(b) Operation, Maintenance and Quality of Operation

The Concessioner must provide, operate and maintain the Visitor Services in accordance with this Contract in a manner considered satisfactory by the Director, including the nature, type and quality of the Visitor Services. The Concessioner's authority to provide Visitor Services under the terms of this Contract is nonexclusive. The Concessioner's operations and contract compliance will be evaluated on at least an annual basis.

(c) Operating Plan

The Director will establish and revise, as necessary, after consultation with the Concessioner, specific requirements for the operations of the Concessioner under this Contract in the form of an Operating Plan. The initial Operating Plan is attached to this Contract as Exhibit B.

(d) Rates

All rates and charges to the public by the Concessioner for Visitor Services must be reasonable and appropriate and must be approved by the Director.

(e) No Capital Improvements

The Concessioner may not construct any Capital Improvements upon Area lands.

SEC. 3. CONCESSIONER PERSONNEL

(a) The Concessioner must ensure that its employees are hospitable and exercise courtesy and consideration in their relations with the public.

(b) The Concessioner must establish appropriate screening, hiring, training, safety, employment, termination and other policies and procedures.

(c) The Concessioner must review the conduct of any of its employees whose action or activities are considered by the Concessioner or the Director to be inconsistent with the proper administration of the Area and enjoyment and protection of visitors and must take such actions as are necessary to correct the situation.

(d) The Concessioner must maintain, to the greatest extent possible, a drug free work environment.

SEC. 4. ENVIRONMENTAL

The Concessioner must utilize appropriate best management practices (practices that apply the most current and advanced means and technologies available to the Concessioner to undertake and maintain a superior level of environmental performance reasonable in light of the circumstances of the operations conducted under this Contract) in its provision of Visitor Services and other activities under this Contract.

SEC. 5. FEES**(a) Franchise Fee**

(1) The Concessioner must pay a franchise fee to the Director as follows:

Four percent (4%) of the Concessioner's gross receipts for the preceding year or portion of a year or a flat fee of \$1000, whichever is greater.

(2) The Concessioner has no right to waiver of the fee under any circumstances.

(b) Payments Due

(1) The franchise fee is due on a monthly basis at the end of each month and must be paid by the Concessioner in such a manner that the Director will receive payment within fifteen (15) days after the last day of each month that the Concessioner operates.

(2) All franchise fees shall be deposited electronically by the Concessioner in accordance with all Applicable Laws.

(3) The Concessioner must pay any additional fee amounts due at the end of the operating year as a result of adjustments at the time of submission of the Concessioner's Annual Financial Report. Overpayments will be offset against the following year's fees. In the event of termination or expiration of this Contract, overpayments will first be offset against any amounts due and owing the Government and the remainder will be paid to the Concessioner.

(c) Interest

An interest charge will be assessed on overdue amounts for each thirty (30) day period, or portion thereof, that payment is delayed. The percent of interest charged will be based on the current value of funds to the United States Treasury as published quarterly in the Treasury Fiscal Requirements Manual. The Director may also impose penalties for late payment to the extent authorized by Applicable Law.

SEC. 6. INSURANCE

The Concessioner must obtain and maintain during the entire term of this Contract at its sole cost and expense, coverage necessary to fulfill the obligations of this Contract. The insurance requirements are set forth in Exhibit D.

SEC. 7. RECORDS AND REPORTS**(a) Accounting System**

(1) The Concessioner must maintain an accounting system under which its accounts can be readily identified with its system of accounts classification. Such accounting system must be capable of providing the information required by this Contract. The Concessioner's system of accounts classification must be directly related to the Concessioner Annual Financial Report Form issued by the Director.

(2) If the Concessioner's annual gross receipts are \$500,000 or more, the Concessioner must use the accrual accounting method.

(3) The Concessioner must keep its accounts in such manner that there can be no diversion or concealment of profits or expenses in the operations authorized under this Contract by means of arrangements for the

procurement of equipment, merchandise, supplies or services from sources controlled by or under common ownership with the Concessioner or by any other device.

(b) Annual Financial Report

- (1) The Concessioner must submit annually as soon as possible but not later than ninety days (90) days after the last day of its fiscal year a financial statement for the preceding fiscal year or portion of a year as prescribed by the Director ("Concessioner Annual Financial Report").
- (2) If the annual gross receipts of the Concessioner are in excess of \$1,000,000, the financial statements must be audited by an independent Certified Public Accountant in accordance with Generally Accepted Auditing Standards (GAAS) and procedures promulgated by the American Institute of Certified Public Accountants.
- (3) If annual gross receipts are between \$500,000, and \$1,000,000, the financial statements shall be reviewed by an independent Certified Public Accountant in accordance with Statements on Standards for Accounting and Review Services (SSARS) and procedures promulgated by the American Institute of Certified Public Accountants.
- (4) If annual gross receipts are less than \$500,000, the financial statements may be prepared without involvement by an independent Certified Public Accountant, unless otherwise directed by the Director.

(c) Other Reports

- (1) Balance Sheet. If requested by the Director, within ninety (90) days of the execution of this Contract or its effective date, whichever is later, the Concessioner must submit to the Director a balance sheet as of the beginning date of the term of this Contract. The balance sheet must be audited or reviewed, as determined by the annual gross receipts, by an independent Certified Public Accountant.
- (2) The Director from time to time may require the Concessioner to submit other reports and data regarding its performance under this Contract or otherwise, including, but not limited to, operational information.

SEC. 8. SUSPENSION, TERMINATION, OR EXPIRATION

(a) Termination and Suspension

- (1) The Director may temporarily suspend operations under this Contract in whole or in part or terminate this Contract in writing at any time in order to protect Area visitors, protect, conserve, and preserve Area resources, or to limit Visitor Services in the Area to those that continue to be necessary and appropriate.
- (2) The Director may terminate this Contract if the Director determines that the Concessioner has materially breached any requirement of this Contract.
- (3) In the event of a breach of the Contract, the Director will provide the Concessioner an opportunity to cure by providing written notice to the Concessioner of the breach. In the event of a monetary breach, the Director will give the Concessioner a fifteen (15) day period to cure the breach. If the breach is not cured within that period, then the Director may terminate the Contract for default. In the event of a nonmonetary breach, if the Director considers that the nature of the breach so permits, the Director will give the Concessioner thirty (30) days to cure the breach, or to provide a plan, to the satisfaction of the Director, to cure the breach over a specified period of time. If the breach is not cured within this specified period of time, the Director may terminate the Contract for default. Notwithstanding this provision, repeated breaches (two or more) of the same nature will be grounds for termination for default without a cure period. In the event of a breach of any nature, the Director may suspend the Concessioner's operations as appropriate in accordance with Section 8(a).

(b) Requirements in the Event of Suspension, Termination or Expiration

(1) In the event of suspension or termination of this Contract for any reason or expiration of this Contract, no compensation of any nature will be due the Concessioner, including, but not limited to, compensation for personal property, or for losses based on lost income, profit, or the necessity to make expenditures as a result of the termination.

(2) Upon termination of this Contract for any reason, or upon its expiration, and except as otherwise provided in this section, the Concessioner must, at the Concessioner's expense, promptly vacate the Area, remove all of the Concessioner's personal property, and repair any injury caused by removal of the property. This removal must occur within thirty (30) days (unless the Director in particular circumstances otherwise determines). Personal property not removed from the Area will be considered abandoned property subject to disposition by the Director, at full cost and expense of the Concessioner.

(3) Prior to and upon the expiration or termination of this Contract for any reason, and, in the event that the Concessioner is not to continue the operations authorized under this Contract after its expiration or termination, the Concessioner shall comply with all applicable requirements of Exhibit E to this Contract, "Transition to a New Concessioner." This section and Exhibit E shall survive the expiration or termination of this Contract.

SEC. 9. ASSIGNMENT, SALE OR ENCUMBRANCE OF INTERESTS

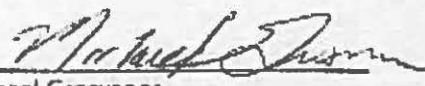
This Contract may not be assigned (e.g. sold) or encumbered (e.g. mortgaged) without the approval of the Director in accordance with 36 CFR Part 51 with respect to proposed assignments and encumbrances.

SEC. 10. GENERAL PROVISIONS – SEE ADDENDUM 1.

Addendum 1 attached to this Contract is made a part of this Contract.

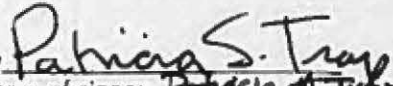
IN WITNESS WHEREOF, the duly authorized representatives of the parties have executed this Contract on the dates shown below.

CONCESSIONER

By 
Michael Grosvenor
President
Manitou Island Transit

DATE: 3/14, 2019

UNITED STATES OF AMERICA

By 
Name of signer Patricia S. Trap
Director, National Park Service

Acting

DATE: 3-20, 2019

ADDENDUM 1 GENERAL PROVISIONS

1. DEFINITIONS

The following terms used in this Contract will have the following meanings, which apply to both the singular and the plural forms of the defined terms:

- (a) "Applicable Laws" means the laws of Congress governing the Area, including, but not limited to, the rules, regulations, requirements and policies promulgated under those laws, whether now in force, or amended, enacted or promulgated in the future, including, without limitation, federal, state and local laws, rules, regulations, requirements and policies governing nondiscrimination, protection of the environment and protection of public health and safety.
- (b) "Area" means the property within the boundaries of Sleeping Bear Dunes National Lakeshore.
- (c) "Days" means calendar days.
- (d) "Director" means the Director of the National Park Service, and his duly authorized representatives.
- (e) "Exhibit" means the various exhibits, which are attached to this Contract, each of which is hereby made a part of this Contract.
- (f) "Gross Receipts" means the total amount received or realized by, or accruing to, the Concessioner from all sales for cash or credit, of services, accommodations, materials, and other merchandise made pursuant to the rights granted by this Contract, commissions earned on contracts or agreements with other persons or companies operating in the Area, and gross receipts earned from electronic media sales, but excluding:
 - (1) Intracompany earnings on account of charges to other departments of the operation (such as laundry);
 - (2) Charges for employees' meals, lodgings, and transportation;
 - (3) Cash discounts on purchases;
 - (4) Cash discounts on sales;
 - (5) Returned sales and allowances;
 - (6) Interest on money loaned or in bank accounts;
 - (7) Income from investments;
 - (8) Income from subsidiary companies outside of the Area;
 - (9) Sale of property other than that purchased in the regular course of business for the purpose of resale;
 - (10) Sales and excise taxes that are added as separate charges to sales prices, gasoline taxes, hunting and fishing license fees, and postage stamps, provided that the amount excluded will not exceed the amount actually due or paid government agencies;
 - (11) Receipts from the sale of handicrafts that have been approved for sale by the Director as constituting authentic American Indian, Alaskan Native, Native Samoan, or Native Hawaiian handicrafts.

All monies paid into coin operated devices, except telephones, whether provided by the Concessioner or by others, must be included in gross receipts. However, only revenues actually received by the Concessioner from coin-operated telephones must be included in gross receipts. All revenues received from charges for in-room telephone or computer access must be included in gross receipts.

- (g) "Superintendent" means the manager of the Area.

(h) "Visitor Services" means the accommodations, facilities and services that the Concessioner is required and/or authorized to provide by this Contract.

2. LEGAL AND REGULATORY COMPLIANCE

This Contract, operations under it by the Concessioner, and its administration by the Director, are subject to all Applicable Laws. The Concessioner must comply with all Applicable Laws in fulfilling its obligations under this Contract at the Concessioner's sole cost and expense. The Concessioner must give the Director immediate written notice of any violation of Applicable Laws by the Concessioner, including its employees, agents or Contractors, and must promptly correct any violation.

3. SERVICES AND OPERATIONS

(a) All promotional material, regardless of media format (i.e., printed, electronic, broadcast media), provided to the public by the Concessioner in connection with the services provided under this Contract must be approved in writing by the Director prior to use. All such material will identify the Concessioner as an authorized Concessioner of the National Park Service, Department of the Interior.

(b) The Concessioner will provide Federal employees reduced rates, in accordance with guidelines established by the Director, when conducting necessary official business. Complimentary or reduced rates and charges may otherwise not be provided to Federal employees by the Concessioner except to the extent that they are equally available to the general public.

(c) The Director and Comptroller General of the United States, or any of their duly authorized representatives, will have access to the records of the Concessioner as provided by the terms of Applicable Laws.

(d) Subconcession or other third party agreements, including management agreements, for the provision of Visitor Services required and/or authorized under this Contract, whether in consideration of a percentage of revenues or otherwise, are not permitted.

(e) The Concessioner will ensure that any protected sites and archeological resources within the Area are not disturbed or damaged by the Concessioner's activities. Discoveries of any archeological resources by the Concessioner will be promptly reported to the Director.

4. ENVIRONMENTAL DATA, REPORTS, NOTIFICATIONS, AND APPROVALS

(a) Inventory of Hazardous Substances and Inventory of Waste Streams

The Concessioner must submit to the Director, upon request, an inventory of hazardous chemicals used and stored in the Area by the Concessioner. The Concessioner must obtain the Director's approval prior to using any extremely hazardous substance, as defined in the Emergency Planning and Community Right to Know Act of 1986, in operations under this Contract. The Concessioner must also submit to the Director, upon request, an inventory of all waste streams generated by the Concessioner under this Contract.

(b) Reports

The Concessioner must submit to the Director copies of all documents, reports, monitoring data, manifests, and other documentation required under Applicable Laws to be submitted to regulatory agencies. The Concessioner must also submit to the Director any environmental plans for which coordination with Area operations are necessary and appropriate, as determined by the Director in accordance with Applicable Laws.

(c) Notification of Releases

The Concessioner must give the Director immediate written notice of any discharge, release or threatened release (as these terms are defined by Applicable Laws) within or at the vicinity of the Area (whether solid, semi-solid, liquid or gaseous in nature) of any hazardous or toxic substance, material, or waste of any kind, including, without limitation, building materials such as asbestos, or any contaminant, pollutant, petroleum, petroleum product or petroleum by-product.

(d) Notice of Violation

The Concessioner must give the Director in writing immediate notice of any written threatened or actual notice of violation from other regulatory agencies of any Applicable Law arising out of the activities of the Concessioner, its agents or employees.

(e) Communication with Regulatory Agencies

The Concessioner must provide timely written advance notice to the Director of communications, including without limitation, meetings, audits, inspections, hearings and other proceedings, between regulatory agencies and the Concessioner related to compliance with Applicable Laws concerning operations under this Contract. The Concessioner must also provide to the Director any written materials prepared or received by the Concessioner in advance of or subsequent to any such communications. The Concessioner must allow the Director to participate in any such communications. The Concessioner must also provide timely notice to the Director following any unplanned communications between regulatory agencies and the Concessioner.

(f) Cost Recovery for Concessioner Environmental Activities

If the Concessioner does not promptly contain and remediate an unauthorized discharge or release arising out of the activities of the Concessioner, its employees, agents and Contractors, as set forth in this section, or correct any environmental self-assessment finding of non-compliance, in full compliance with Applicable Laws, the Director may, in its sole discretion and after notice to the Concessioner, take any such action consistent with Applicable Laws as the Director deems necessary to abate, mitigate, remediate, or otherwise respond to such release or discharge, or take corrective action on the environmental self-assessment finding. The Concessioner will be liable for and must pay to the Director any costs of the Director associated with such action upon demand. Nothing in this section precludes the Concessioner from seeking to recover costs from a responsible third party.

5. FEES**(a) Adjustment of Franchise Fee**

(1) The Concessioner or the Director may request, in the event that either considers that extraordinary, unanticipated changes have occurred after the effective date of this Contract, a reconsideration and possible subsequent adjustment of the franchise fee established in this section. For the purposes of this section, the phrase "extraordinary, unanticipated changes" will mean extraordinary, unanticipated changes from the conditions existing or reasonably anticipated before the effective date of this Contract which have or will significantly affect the probable value of the privileges granted to the Concessioner by this Contract. For the purposes of this section, the phrase "probable value" means a reasonable opportunity for net profit in relation to capital invested and the obligations of this Contract.

(2) The Concessioner or the Director must make a request for a reconsideration by mailing, within sixty (60) days from the date that the party becomes aware, or should have become aware, of the possible extraordinary, unanticipated changes, a written notice to the other party that includes a description of the possible extraordinary, unanticipated changes and why the party believes they have affected or will significantly affect the probable value of the privileges granted by this Contract.

- (3) If the Concessioner and the Director agree that extraordinary, unanticipated changes have occurred, the Concessioner and the Director will undertake good faith negotiations as to an appropriate adjustment of the franchise fee.
- (4) The negotiation will last for a period of sixty (60) days from the date the Concessioner and the Director agree that extraordinary, unanticipated changes occurred. If the negotiation results in agreement as to an adjustment (up or down) of the franchise fee within this period, the franchise fee will be adjusted accordingly, prospectively as of the date of agreement.
- (5) If the negotiation does not result in agreement as to the adjustment of the franchise fee within this sixty (60) day period, then either the Concessioner or the Director may request binding arbitration to determine the adjustment to franchise fee in accordance with this section. Such a request for arbitration must be made by mailing written notice to the other party within fifteen (15) days of the expiration of the sixty (60) day period.
- (6) Within thirty (30) days of receipt of such a written notice, the Concessioner and the Director will each select an arbiter. These two arbiters, within thirty (30) days of selection, must agree to the selection of a third arbiter to complete the arbitration panel. Unless otherwise agreed by the parties, the arbitration panel will establish the procedures of the arbitration. Such procedures must provide each party a fair and equal opportunity to present its position on the matter to the arbitration panel.
- (7) The arbitration panel will consider the written submissions and any oral presentations made by the Concessioner and the Director and provide its decision on an adjusted franchise fee (up, down or unchanged) that is consistent with the probable value of the privileges granted by this Contract within sixty (60) days of the presentations.
- (8) Any adjustment to the franchise fee resulting from this section will be prospective only.
- (9) Any adjustment to the franchise fee will be embodied in an amendment to this Contract.
- (10) During the pendency of the process described in this section, the Concessioner will continue to make the established franchise fee payments required by this Contract.

6. INDEMNIFICATION

The Concessioner agrees to assume liability for and does hereby agree to save, hold harmless, protect, defend and indemnify the United States of America, its agents and employees from and against any and all liabilities, obligations, losses, damages or judgments (including without limitation penalties and fines), claims, actions, suits, costs and expenses (including without limitation attorneys fees and experts' fees) of any kind and nature whatsoever on account of fire or other peril, bodily injury, death or property damage, or claims for bodily injury, death or property damage of any nature whatsoever, and by whomsoever made, in any way connected with or arising out of the activities of the Concessioner, its employees, agents or Contractors under this Contract. This indemnification will survive the termination or expiration of this Contract.

7. NOTICE OF BANKRUPTCY OR INSOLVENCY

The Concessioner must give the Director immediate notice (within five (5) days) after the filing of any petition in bankruptcy, filing any petition seeking relief of the same or different kind under any provision of the Bankruptcy Act or its successor, or making any assignment for the benefit of creditors. The Concessioner must also give the Director immediate notice of any petition or other proceeding against the Concessioner for the appointment of a trustee, receiver, or liquidator, or, the taking by any person or entity of the rights granted by this Contract or any part thereof upon execution, attachment or other process of law or equity.

For purposes of the bankruptcy statutes, NPS considers that this Contract is not a lease but an executory Contract exempt from inclusion in assets of Concessioner pursuant to 11 U.S.C. 365. The Director may terminate this Contract if the Director determines that the Concessioner is unable to perform the terms of Contract due to such bankruptcy or insolvency action.

8. ADDITIONAL PROVISIONS

(a) This Contract contains the sole and entire agreement of the parties, except for survival of the Concessioner's commitments as set forth in its Offeror's Transmittal Letter in response to the solicitation for this Contract. No oral representations of any nature form the basis of or may amend this Contract. This Contract may be extended, renewed or amended only when agreed to in writing by the Director and the Concessioner.

(b) This Contract does not grant rights or benefits of any nature to any third party.

(c) The invalidity of a specific provision of this Contract will not affect the validity of the remaining provisions of this Contract.

(d) Waiver by the Director or the Concessioner of any breach of any of the terms of this Contract by the other party will not be deemed to be a waiver or elimination of such term, nor of any subsequent breach of the same type, nor of any other term of the Contract. The subsequent acceptance of any payment of money or other performance required by this Contract will not be deemed to be a waiver of any preceding breach of any term of the Contract.

(e) No member of, or delegate to, Congress or Resident Commissioner will be admitted to any share or part of this Contract or to any benefit that may arise from this Contract but this restriction will not be construed to extend to this Contract if made with a corporation or company for its general benefit.

(f) This Contract is subject to the provisions of 2 C.F.R. Part 1400, as applicable, concerning nonprocurement debarment and suspension. The Director may recommend that the Concessioner be debarred or suspended in accordance with the requirements and procedures described in those regulations, as they are effective now or may be revised in the future.

(g) Nothing contained in this Contract shall be construed as binding the Director to expend, in any fiscal year, any sum in excess of the appropriation made by Congress for that fiscal year or administratively allocated for the subject matter of this Contract, or to involve the Director in any contract or other obligation for the future expenditure of money in excess of such appropriations.

9. NATIONAL PARK SERVICE TRADEMARK LICENSE

(a) License Grant

The unique nature of a National Park Service concession blends commercial enterprise with the treasured historic, cultural, and, natural assets that the Director is responsible for protecting. The Director hereby grants to the Concessioner a royalty-free, non-exclusive, non-transferable license to use the marks as listed in Exhibit F ("Marks"), for use solely to carry out the services described under this Contract in manner that promotes National Park Service goals and values as stated herein. The Concessioner has the right to sub-license Marks in order to carry out services described under this Contract upon written approval of the Director and under same or substantially similar terms as contained herein. Any use of any Mark intended to identify the National Park Service, or one of the Concession Facilities, shall inure to the benefit of the National Park Service. This license shall cease upon termination or expiration of the Contract, or as otherwise determined by the Director or by law. This license does not constitute a compensable interest to the Concessioner.

(b) Quality Control and Goodwill

The Concessioner acknowledges that the maintenance of the high quality of the services, materials, products, and merchandise produced, sold or otherwise prepared for public dissemination pursuant to or in order to carry out services required under this Contract, as well as the control by the Director over their nature, quality, and manner of delivery or distribution, are material conditions of this Contract. The Concessioner shall maintain the distinctiveness of the Marks, the image of the National Park Service brand, and the image and high quality of the services, materials, products, and merchandise bearing the Marks licensed herein. Marks may be used and appear together with other marks used in connection with concession-related goods and services but must stand by themselves. The Concessioner shall immediately cease use of a Mark used in association with the services provided under this Contract on request of the National Park Service.

(c) Rights and Ownership

The Concessioner acknowledges that the National Park Service is the sole and exclusive owner of all right, title and interest in and to its Marks, including those licensed under this agreement, as well as to all combinations, forms, and derivatives which must be approved by the Director. The Concessioner further acknowledges, represents and warrants that it has not acquired and shall not acquire (whether by operation of law, by this Contract, or otherwise) any right, title, interest or ownership (collectively "Ownership Rights") in or to any National Park Service Marks or any part thereof. Should any Ownership Rights become vested in the Concessioner, the Concessioner agrees to assign, and hereby assigns, all such Ownership Rights to the Director free of consideration. The Concessioner shall immediately provide and execute all documents reasonably requested by the Director to effectuate and record each such assignment. The Concessioner shall not, during the term or at any time thereafter, do anything which, in the Director's sole judgment, could in any way damage the validity and subsistence of the Marks. The Concessioner shall not attack, dispute, or challenge the National Park Service's Ownership Rights in or to the Marks or the validity of this Contract, nor shall the Concessioner assist others in so doing.

EXHIBIT A**NONDISCRIMINATION****SEC. 1 REQUIREMENTS RELATING TO EMPLOYMENT AND SERVICE TO THE PUBLIC****(a) Employment**

During the performance of this Contract the Concessioner agrees as follows:

(1) The Concessioner will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, age, national origin, or disabling condition. The Concessioner will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, age, national origin, or disabling condition. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Concessioner agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Secretary setting forth the provision of this nondiscrimination clause.

(2) The Concessioner will, in all solicitations or advertisements for employees placed by on behalf of the Concessioner, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, age, national origin, or disabling condition.

(3) The Concessioner will send to each labor union or representative of workers with which the Concessioner has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Secretary, advising the labor union or workers' representative of the Concessioner's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) Within 120 days of the commencement of a contract every Government contractor or subcontractor holding a contract that generates gross receipts which exceed \$50,000 and having 50 or more employees shall prepare and maintain an affirmative action program at each establishment which shall set forth the contractor's policies, practices, and procedures in accordance with the affirmative action program requirement.

(5) The Concessioner will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Concessioner will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to the Concessioner's books, records, and accounts by the Secretary of the Interior and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) The Concessioner will comply with all provisions of Executive Order 13658 Establishing a Minimum Wage for Contractors, and its implementing regulations, including the applicable contract clause, which are incorporated by reference into this Contract as if fully set forth in this Contract. The applicable contract clause is available at <https://federalregister.gov/a/2014-23533>.

Exemption: Under Executive Order 13838, Executive Order 13658 shall not apply to contracts or contract-like instruments entered into with the Federal Government in connection with seasonal recreational services

or seasonal recreational equipment rental for the general public on Federal lands, but this exemption shall not apply to lodging and food services associated with seasonal recreational services. Seasonal recreational services include river running, hunting, fishing, horseback riding, camping, mountaineering activities, recreational ski services, and youth camps.

(8) In the event of the Concessioner's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Concessioner may be declared ineligible for further Government concession contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(9) The Concessioner will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, so that such provisions will be binding upon each subcontractor or vendor. The Concessioner will take such action with respect to any subcontract or purchase order as the Secretary may direct as a means of enforcing such provisions, including sanctions for noncompliance. Provided, however, that in the event the Concessioner becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the Secretary, the Concessioner may request the United States to enter into such litigation to protect the interests of the United States.

(b) Construction, Repair, and Similar Contracts

The preceding provisions A(1) through A(8) governing performance of work under this Contract, as set out in Section 202 of Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, shall be applicable to this Contract, and shall be included in all contracts executed by the Concessioner for the performance of construction, repair, and similar work contemplated by this Contract, and for that purpose the term "Contract" shall be deemed to refer to this instrument and to contracts awarded by the Concessioner and the term "Concessioner" shall be deemed to refer to the Concessioner and to contractors awarded contracts by the Concessioner.

(c) Facilities

(1) Definitions: As used herein:

- (i) Concessioner shall mean the Concessioner and its employees, agents, lessees, sublessees, and contractors, and the successors in interest of the Concessioner;
- (ii) Facility shall mean any and all services, facilities, privileges, accommodations, or activities available to the general public and permitted by this agreement.

(2) The Concessioner is prohibited from:

- (i) publicizing facilities operated hereunder in any manner that would directly or inferentially reflect upon or question the acceptability of any person because of race, color, religion, sex, sexual orientation, gender identity, age, national origin, or disabling condition;
- (ii) discriminating by segregation or other means against any person.

SEC. 2 ACCESSIBILITY

Title V, Section 504, of the Rehabilitation Act of 1973, as amended in 1978, requires that action be taken to assure that any "program" or "service" being provided to the general public be provided to the highest extent reasonably possible to individuals who are mobility impaired, hearing impaired, and visually impaired. It does not require architectural access to every building or facility, but only that the service or program can be provided somewhere in an accessible location. It also allows for a wide range of methods and techniques for achieving the intent of the law, and calls for consultation with disabled persons in determining what is reasonable and feasible.

No handicapped person shall, because a Concessioner's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity receiving Federal financial assistance or conducted by any Executive agency or by the U.S. Postal Service.

(a) Discrimination Prohibited

A Concessioner, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of handicap:

- (1) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;
- (2) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;
- (3) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective as that provided to others;
- (4) Provide different or separate aids, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;
- (5) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;
- (6) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or
- (7) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit, or service.

(b) Existing Facilities

A Concessioner shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not require a Concessioner to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

EXHIBIT B OPERATING PLAN

1) Introduction	1
2) Management Responsibilities	1
A) Concessioner	1
B) National Park Service	2
3) General Operating Standards and Requirements	3
A) Location, Hours, and Schedule of Operations	3
B) Standards	4
C) Rate Determination and Approval Process	5
D) Evaluations	7
E) General	8
F) Interpretive Services	9
G) Human Resources Management	9
4) Risk Management Program	11
A) Risk Management Program	11
5) Public Relations	11
A) Required Notices	11
B) Authorized Concessioner Mark	12
C) Media Inquiries	12
D) Complaints	12
E) Advertisements and Marketing	12
6) Special Operating Standards and Requirements	13
A) General management	13
B) Specific Requirements	14
7) Resource Protection	17
A) Integrated Pest Management.	17
B) Exotic Plant Control.	17
8) Reporting Requirements	18
A) Human Illness	18
B) Concessioner Financial Reporting	18
C) Concession Operational Reporting	19
D) Summary of initial and recurring Report Due Dates	20

Addendum #1: Risk Management Program Standards
Addendum #2: Draft Third-Party Sales Agreement
Addendum #3: Technical Bulletin: Vomit Management

1) Introduction

This Operating Plan is between Manitou Island Transit (hereinafter referred to as the "Concessioner") and the National Park Service (hereinafter referred to as the "Service"). It describes specific operating responsibilities of the Concessioner and the Service with regard to those lands, waters, and facilities within Sleeping Bear Dunes National Lakeshore (hereinafter referred to as the "Area"), which the Concessioner provides services for the purposes authorized by the Contract.

In the event of any conflict between the terms of the Contract and this Operating Plan, the terms of the Contract, including its designations and amendments, will prevail.

This plan will be reviewed annually by the Superintendent in consultation with the Concessioner and revised as determined necessary by the Superintendent. Any revisions shall not be inconsistent with the main body of this Contract. Any revisions must be reasonable and in furtherance of the purposes of the Contract.

2) Management Responsibilities

A) Concessioner

- (1) The Concessioner must designate an individual to serve as the on-site manager, to carry out the policies and the directives of the Service as well as those of the Concessioner in the operation of the services provided under the Contract.
- (2) To achieve an effective and efficient working relationship between Concessioner and the Service, Concessioner must designate one representative who has full authority to act as a liaison in all concession administrative/operational matters within the Area.
- (3) Concessioner must employ a staff with the expertise to operate all services provided under the Contract.
- (4) Concessioner must furnish the Service with an initial list identifying key concession management and supervisory personnel and their job titles, with updates of management and supervisors as changes occur.
- (5) The Concessioner must obtain any permits or licenses in relation to the operation as required by Federal, State, Tribal, and local units of government, including the United States Coast Guard (USCG). Concessioner must ensure that current, correct copies of all permits and/or licenses are always on file with the Area's Chief Ranger.
- (6) The Concessioner must obtain USCG inspections for each vessel on an annual basis. Once the Concessioner receives the reports from the USCG, the Concessioner must submit copies to the Service.
- (7) All personnel of Concessioner engaged in the operation of vessels or transfer craft must possess appropriate USCG licenses. Concessioner must ensure that current, correct copies of all permits and/or licenses are always on file with the Area's Commercial Services office.
- (8) The Concessioner must submit all operating proposals to the Service in writing.

- (9) The Concessioner must respond to all correspondence received from the Service within two weeks unless the correspondence indicates another deadline. Complaints have a shorter deadline. See Section 5(D) of this Plan.
- (10) The Concessioner is responsible for complying with the provisions of the Contract including Exhibits and Addendums thereto, and related policies and directives of the Service in providing consistent, high quality services to the Area visitors.
- (11) The Concessioner must comply with procedures established by the Service for Area day use visitors and campground management.
- (12) The Concessioner's office hours during workdays must be consistent; the office must be open from at least 8:30 a.m. to 5:00 p.m. on days of operation.
- (13) The Concessioner agrees to operate safely, operate in a manner that causes no damage to the natural/cultural resources or facilities, and to abide by the highest standards of business ethics, decorum, courtesy, and visitor service.

B) National Park Service

(1) *Responsibilities of the Superintendent:*

- (a) The Superintendent manages the total Area operation, including concession operations. The Superintendent carries out the policies and directives of the Area, including management of Concession Contracts. The Deputy Superintendent may act as the Superintendent's representative in any or all of these responsibilities.
- (b) Through designated representatives, the Superintendent reviews, supervises, and coordinates concession activities within Sleeping Bear Dunes National Lakeshore. The representatives' tasks includes inspection of the equipment and services used by the Concessioner, approving maximum rates charged to the visiting public, advertising review, orientation monitoring, approval of services offered, and an evaluation of the quality of service.

(2) *Responsibilities of Park Personnel:*

- (a) Chief Ranger (Collateral Duty Concession Specialist): has delegated responsibility for serving as the primary liaison for concession activities. The Chief Ranger makes recommendations on all aspects of the Concessioner's operation to the Superintendent. He/she ensures necessary evaluations and inspections are performed. The Chief Ranger ensures all concession rates are approved based upon current comparability studies or applicable guidelines. He/she has authority from the Superintendent to make field decisions that pertain to the concession operation. The Chief Ranger also reviews and coordinates the Concessioner's day-to-day activities; operational and maintenance activities; rate, service, and schedule changes; advertisements; annual financial report; insurance coverage; and all other Contract requirements.

- (b) Chief of Interpretation and Visitor Services (I&VS): acts on behalf of the Superintendent in matters pertaining to public orientation, interpretation, education, museum services, and fee collection. The I&VS Division staff provides Area orientation information, interpretive programs, and pass sales to the visiting public. The Chief of I&VS will work with the Chief Ranger to evaluate/monitor how the concession provides Area information, interpretive programs, and pass sales.
- (c) Administrative Officer: is responsible for the funds control, collection and audit of fees. The Administrative Officer must act on behalf of the Superintendent in all matters relating to the fiscal obligations associated with concession activities.
- (d) Facility Manager: is responsible for all matters relating to Area and facility maintenance. The Facility Manager also serves as a liaison relating to issues involving access and public use facilities (i.e., docks).

3) General Operating Standards and Requirements

A) Location, Hours, and Schedule of Operations

(1) Business Location and Telephone:

The Concessioner must provide a public business telephone number and staff it at least seven (7) days a week from 8:30 a.m. to 5 p.m. during the high season of operation, from Memorial Day Weekend to Labor Day Weekend. In addition, the Concessioner must provide an off-season address and telephone number. In the off-season, the public must be able to readily reach the Concessioner and have questions about the service(s) and reservations answered in an accurate, comprehensive, and timely manner.

(2) Hours and Emergency Contact:

The Concessioner must clearly post for the public the hours and season of operation. The Concessioner must provide the Superintendent with an after-hours emergency contact number. The individual at this number must have the authority to provide approved services.

(3) Schedule:

The Concessioner must make every reasonable attempt to operate according to the approved schedule. Schedule changes (other than weather cancellations) must be submitted for approval no later than February 1 of each year. In the event of a weather cancellation, the Service will be notified as soon as possible (see sec. 6) B) (1) (a)).

The Service and Concessioner will work cooperatively to ensure that no backcountry camper will be transported without being issued the appropriate Backcountry Use Permit. The Service intends for the Concessioner to sell backcountry passes to ferry passengers that intend to camp on the islands. The Concessioner, if it agrees, will sign a separate Third Party Sales Agreement with the Service, which is attached as an addendum to the draft Operating Plan. The Service and Concessioner will also work cooperatively if a new backcountry camping reservation system goes into effect on the islands.

Island schedule - Regular season. The Concessioner will provide required services for Area visitors on a seasonal basis. The following services will be a minimum requirement of the Contract:

Minimum Frequency of Scheduled Ferry Service

Dates	South Manitou	North Manitou
5/1 through 5/30	Fri., Sat., Sun., Memorial Day	Fri., Sat., Sun., Memorial Day
6/1 through 6/15	Fri., Sat., Sun., Mon., Wed.	Fri., Sun., Wed.
6/16 through 6/30	Daily	Fri., Sun., Wed.
7/1 through 9/3	Daily	Daily
9/4 through 9/14	Fri., Sat., Sun., Wed.,	Fri., Sun., Wed.
9/15 through 10/8	Fri., Sat., Sun., Columbus Day	Fri., Sun., Columbus Day
Last Saturday in October to first Saturday in November	Saturday	Saturday (deer hunt)

The Concessioner will provide all trips as scheduled above, provided 15% of the vessel capacity (*insert actual number here*) of fares is sold. It is understood that the decision to cancel a trip due to weather, vessel conditions, and/or passenger safety is the responsibility of the vessel captain. A decision to cancel due to unsafe weather conditions will not be made prior to the day of travel.

Transit times. The departure time for North Manitou Island via South Manitou Island from Leland will be 10:00 a.m. The South Manitou Island departure time returning to Leland will be 4:00 p.m. to allow at least a four and a half hour visit on South Manitou Island on weekends during May, June, September, October, and daily during July and August. The departure time from the island will be announced upon arrival to prevent stranding day visitors. Arrival at Leland from South Manitou Island is at 5:30 p.m. Arrival at Leland from North Manitou Island varies from 1:40 p.m. to 5:30 p.m.

Transit times

Departure time	Departure Location	Arrival Time	Arrival Location
10:00 a.m.	Leland	11:15 a.m.	South Manitou
11:30 a.m.	South Manitou	12:30 p.m.	North Manitou
12:40 p.m.	North Manitou	1:40 p.m.	Leland
1:50 p.m.	Leland	2:45 p.m.	North Manitou
2:55 p.m.	North Manitou	3:50 p.m.	South Manitou
4:00 p.m.	South Manitou	5:30 p.m.	Leland

Motor tours. Motor tours on South Manitou Island will run on a schedule that meets the demand of day-use visitors, should the Concessioner choose to provide them. The Service will approve the motor tour route and program.

North Manitou Island Deer Hunt. The Concessioner will support the annual NPS North Manitou Island deer hunt. The Concessioner will transport hunters from Leland to North Manitou Island on the last Saturday in October and return the hunters to Leland on the first Saturday in November.

B) Standards

- (1) The water transportation services and motor tours required and authorized by the Contract must comply with industry standards and conform to the evaluation standards set forth in Service guidelines and with this plan. The Service considers the standards provided as the minimums. The Service expects the Concessioner to meet and/or make every effort to exceed these standards. To assure quality standards, the Concessioner must monitor operations and make necessary adjustments.
- (2) The Concessioner must adhere to the applicable Water Ferry Standards (10-FER) and, should they choose to provide them, Guided Land Tours Standards (10-GLA) identified below. The full text of the relevant standards can be found on the NPS Commercial Services public website.
- (3) The Service requires the following adjustments to the 10-FER evaluation standards:
 - (a) Standards 1-32 do not apply because the Contract does not assign the Concessioner facilities.
 - (b) Standards 75, and 79-84 do not apply because there is no food prep authorized in the contract, all food is grab and go style.
- (4) The Service requires the following adjustments to the 10-GLA evaluation standards:
 - (a) Standards 1-41 do not apply because the Contract does not assign the Concessioner facilities.
 - (b) Standards 68-72 do not apply because the Contract does not authorize overnight trips or food service as part of the tour
 - (c) Standard 76 does not apply because the Contract does not require that toilet boxes be brought on the tour.

C) Rate Determination and Approval Process

- (1) The Concessioner's rates and charges to the public must be commensurate with the level of services provided and are reasonable, justified and comparable with similar services provided by the private sector. The Service uses the most recent Rate Administration Guide (currently 2017) to establish rates. The Concessioner can find the Guide on the NPS Commercial Services public website.
- (2) Convenience Store Markup:

The Concessioner must use the most recent version of the Convenience Store Markup or the Manufacturers Suggested Retail Price (if marked on the snack item package) to set the appropriate rates for snacks and other convenience items sold on the boats.
- (3) Competitive Market Declaration:

The Service will issue the Concessioner a Competitive Market Declaration for gift items sold on the boat. This method allows the Concessioner to price accordingly for a competitive market.
- (4) Indexing Method:

The Service will set the base rates for transportation of personal watercraft on board the ferry and for motorized land tours on South Manitou Island at the beginning of the contract and these rates will be eligible for increase in accordance with the Consumer Price Index for all Urban Consumers (CPI-U) for 'all items', U.S. city average. In year five of the contract, the Service will review the rates.

(5) Comparability Method:

The Service will use the Comparability method for determining appropriate rates for Water Transportation Service. This method is used to correlate the Concessioner's rates to similar operations in the competitive marketplace while taking into consideration operating differences. If the Concessioner is seeking a rate increase, the Concessioner must submit written requests for rate increases to the Service by February 1 for official review and response. The rate request will include the companies the Concessioner would like to use for comparables for the Service's consideration. Comparables must not be concessioners in a national park, and must have competition. The Service will approve, disapprove, or adjust rates and will inform the Concessioner of the reason for any disapproval or adjustment within 45 days of receipt.

- (6) The Concessioner is not required to submit requests for rate decreases for Superintendents approval. The Concessioner may also set group rates at its discretion, as long as they are less expensive than the maximum rate approved by the Superintendent.
- (7) When requesting rate increases, the Concessioner must also submit its reservation/deposit refund policy statement for review and approval by the Superintendent and inclusion in the rate schedule.
- (8) The Concessioner must post rates in a location visible to the public, both on their website and at their place of business.
- (9) The Superintendent or his/her representative will conduct spot checks for compliance with approved rates throughout the year and during periodic inspections.
- (10) Service Entrance Fee: Trip rate amounts must not include the Area entrance fee. All trip participants must either already possess or purchase an entrance pass. The Concessioner will have the opportunity to sell "America the Beautiful – the National Parks and Federal Recreational Lands Annual Pass" and/or "Preprinted - Seven (7) Day Entrance Receipts" ("Passes") to trip participants who do not already possess a valid Area entrance pass. The Concessioner, if it agrees, will sign a separate Third Party Sales Agreement with the Service (see addendum #2).
- (11) Reduced Rates for Government Employee and Others
 - (a) Service employees on official business and others (not family members) on Area-related business, as designated by the Superintendent, must receive a 50% reduced rate for transportation to the islands, if seats are available.

- (b) Reduced rates for Service employees and others on official business must be part of the approved rate schedules.
- (c) The Concessioner may not provide goods and services to government employees not on official government business or their families without charge or at reduced rates.
- (d) The Concessioner must provide transportation (ferry and motor tours), at no cost, to Service staff member(s) involved in evaluating Concessioner services.
- (e) Reduced rates are not applicable under any circumstances for food, merchandise, or motor tours (unless they are being evaluated).

(12) The currently approved rates are:

Type	Rate
Adults, ferry transport, roundtrip	\$40 round trip
Children 12 & under, ferry transport, roundtrip	\$20 roundtrip
Government employees on business, ferry transport, roundtrip	\$20 roundtrip (50% of full fare)
Adults, motor tour	\$10
Children 12 and under, motor tour	\$7
Canoes, kayaks, or Stand Up Paddleboards less than 13 feet, roundtrip	\$35 round trip
Canoes, kayaks, or Stand Up Paddleboards 13 feet or more, roundtrip	\$65 round trip
Hunters, including gear and deer, roundtrip	\$100

D) Evaluations

- (1) The Service and the Concessioner must separately evaluate and monitor concession services with respect to Service policy, applicable standards, authorized rates, safety, public health, impacts on cultural and natural resources, environmental management, narration and interpretive material content and quality, and visitor concerns and reactions.
- (2) Designated Service employees must conduct periodic evaluations of Concessioner vessels and services to ensure conformance to operational standards established by Service guidelines. The Service must contact location managers at the time of evaluations so that a representative of the Concessioner can accompany the evaluator if desired. The Service may conduct additional evaluations at the discretion of the Service.
- (3) The Service also may conduct unannounced inspections in accordance with current NPS Concession Guidelines. Upon arrival at the facility, the Service

representative must attempt to contact the Concessioner or other person in charge before beginning the evaluation. If available, the Concessioner or his/her representative must attend all evaluations.

- (4) Upon completion of the evaluation, the evaluator and Concessioner's representative must discuss the deficiencies identified and the Service must make a copy of the periodic evaluation available to the Concessioner. The evaluator must establish "correct by" dates for all determined deficiencies and schedule appropriate follow-up evaluations. The Concessioner must correct all A and B deficiencies within 15 days unless both parties agree to a different date. The Concessioner must sign a copy of the evaluation, signifying that they have seen it and received a copy.
- (5) Annual Overall Rating (AOR). As part of the Concessioner Review Program, the Service provides the Concessioner with an Annual Overall Rating by March 1 for the preceding calendar year. The Superintendent and/or his or her representatives may meet with the Concessioner to discuss the evaluation. The AOR provides narrative summaries of the operating year, as well as the following reports:
 - (a) Administrative Compliance Report. This report considers such items as timely submission of the annual financial report, timely and accurate submission of franchise fees, and timely submission of proof of insurance among other things.
 - (b) Operational Compliance Report. This report summarizes the Periodic Operational Evaluations for the year.
 - (c) Risk Management Program Report. This is an administrative review of the Concessioner's Risk Management Program.
 - (d) After receiving the report, the Concessioner must sign the report as acknowledgment of having received same, and return to Service.

E) General

- (1) Insurance Certification (from Concessioner's insurance company):

The Concessioner must submit to the Service a Certificate of Insurance by May 1 of each year. The Service must suspend the concession operation without further notice if the Certificate of Insurance is not submitted by the required date.

- (2) Ferry Inspections:

The ferry boats will be inspected on an annual basis by the USCG in compliance with their regulations. A copy of the Certificate of Compliance will be forwarded to the office of the Chief Ranger upon receipt.

- (3) Reservation/Deposit/Refund:

Individuals or groups of nine (9) or less who cancel more than 48 hours prior to departure will receive a full refund, minus a 20% processing fee. Groups of ten (10) or more who cancel fourteen days or more prior to departure will receive a full refund, minus a 20% processing fee. Full refunds will be made if the Concessioner cancels a trip for any reason.

(4) Lost and Found Policy:

The Concessioner must tag each found item, listing the item found, location found, date and time found, and who found it. If no one claims an item within seven (7) days, the Concessioner must turn it over to the Service. When possible, the Concessioner must attempt to identify the ownership of the found item and provide this information to the Service. The Concessioner must refer visitors inquiring about lost items to the Service's Area headquarters in the event the Concessioner is unable to assist the visitor in the recovery of the item.

F) Interpretive Services

The Concessioner must provide interpretive training to their employees so their employees can accurately inform visitors and answer questions about the Area and its resources. The Concessioner should develop its interpretive training program and presentation materials through consultation with the Service. The Concessioner may also choose to have its staff attend the annual Service interpretive training at no cost to the Concessioner.

G) Human Resources Management

(1) **Employee Identification and Appearance.** Employees must be neat and clean in appearance and must project a hospitable, positive, friendly, and helpful attitude.

- (a) All concession employees who have direct contact with the public must wear a uniform or recognizable, standardized clothing.
- (b) All concession employees must be capable of and willing to answer visitors' questions and provide visitor assistance.

(2) **Employee List.**

- (a) A current list of concession employees, including the name, age, work assignment and USCG licenses held must be maintained at the Concessioner's place of business and be available to the Service when requested.
- (b) The Concessioner must submit to the Service a list of all of its managers' names, job titles, and contact information (on-site and after hours) within 30 days of the effective date of the Contract. The Concessioner must indicate a primary and secondary contact in case of emergencies.

(3) **Employee Hiring Procedures**

- (a) Staffing Requirements. The Concessioner must hire a sufficient number of employees to ensure satisfactory visitor services throughout the year. The Concessioner must attempt to offer its employees a full workweek whenever possible. Prior to employment, the Concessioner must inform employees of salary, schedules, holiday pay, overtime requirements, and the possibility that less-than-full-time employment may occur during slow periods.
- (b) Background Checks. The Concessioner must establish hiring policies that include appropriate background reviews of applicants for employment.

The Concessioner must not hire, or retain, any person known to have an outstanding warrant for arrest.

- (c) Drug-free Environment. The Concessioner must maintain, to the greatest extent possible, a drug-free workplace environment. Should the Concessioner learn of illegal drug use by its employees within the Area, the Concessioner must report the use and subsequent action taken by the Concessioner to the Chief Ranger's Office. The Concessioner must require that those employees who are in safety sensitive positions, such as passenger-carrying transportation or motor tours, participate in random drug testing.
- (d) Driver requirements. The Concessioner must ensure that drivers of motor tours have a valid Michigan chauffeur's license for the size and class of the vehicle being operated. Ferry vessel operators must comply with applicable state boating laws including USCG licensing requirements for commercial passenger service.

(4) Employee Training.

- (a) The Concessioner must provide employee orientation and training for each employee. This orientation will inform employees of Service regulations and requirements that affect their employment and activities while working in the Area, including potential safety hazards and their mitigation.
- (b) The Concessioner must orient its employees to the resources of the Area, including the general history of the Area, primary visitor activities, and significant geologic features. Employees must provide accurate information and direct visitors to the Visitor Center for additional information.
- (c) Harassment Free Work Environment: The Concessioner must provide its employees with a statement of its policies regarding prevention of sexual harassment and the creation of a hostile workplace environment, procedures for addressing complaints, and conduct educational program(s) for its employees to prevent sexual harassment and a hostile workplace environment.
- (d) The Concessioner will provide hospitality training for employees who have direct visitor contact and/or who provide visitor information.
- (e) The Concessioner will provide first-aid training for employees who staff the ferry vessels. At a minimum, ferry pilots will be certified in CPR and First Aid; a copy of these certifications will be submitted annually to the Chief Ranger.
- (f) The Concessioner will provide interpretive training for all employees who provide interpretive informational services, safety, and environmental orientation information. The Concessioner must work closely with Service personnel to enhance methods of preparing and presenting effective interpretive information.

Concession employees must be knowledgeable about Sleeping Bear Dunes National Lakeshore, its environment, culture, history, and points of interest. They must be familiar with State laws and Service regulations and must be responsible for providing accurate and comprehensive Area information to the public. The Concessioner must resolve any disputes or differences with the Service discretely, out of the public's view.

(5) Volunteers in Parks (VIP) Program

The Concessioner may allow its employees to participate in the Volunteers in Parks (VIP) program if the Service approves.

(6) Park Employees and Families

The Concessioner may not employ in any status a Service employee, his/her spouse, or minor children of Service employees without the Superintendent's approval in advance. The Service employee involved must submit a written request to the Superintendent 15 days in advance of employment. The Concessioner may not employ in any status the spouse or children of any employee directly involved in program management or who conducts periodic inspections/evaluations.

4) Risk Management Program

A) Risk Management Program

- (1) Per the Occupational Safety and Health Act of 1970, the Guideline DO 50B, "Occupational Safety and Health Program" and DO 50C, "Public Risk Management Program", the Concessioner must provide a safe and healthful environment for all of its employees and visitors.
- (2) The Concessioner must develop, maintain, and implement a documented safety program ("Risk Management Plan") as outlined in NPS standards (addendum #1 of Exhibit B Operating Plan). The Concessioner must submit its Risk Management Plan for review within 120 days of the award of the contract. The Concessioner must submit annual updates thereafter by December 31 of each year.
- (3) The Service will evaluate the Concessioner's compliance with the Risk Management Evaluation Form 10-RMP. The resulting rating may impact the Concessioner's Annual Overall Rating Report (AOR) as it is part of that review. The NPS standards are attached in addendum #2 and can also be found at this website:
https://www.nps.gov/subjects/concessions/upload/Risk_Mgmt_Program_Std.pdf. A sample RMP (for educational purposes) can be found at this website:
https://concessions.nps.gov/docs/concessioner%20tools/Risk_Mgmt_Program_Sample.pdf.

5) Public Relations

A) Required Notices

- (1) The Concessioner must prominently post the following at all Concessioner cash registers, payment areas, and on each vessel:

This service is operated by (Concessioner's name), a Concessioner under contract with the U.S. Government and administered by the National Park Service. The Concessioner is responsible for conducting these operations in a satisfactory manner. The National Park Service approves prices. Please address comments or concerns to:

Superintendent
Sleeping Bear Dunes National Lakeshore
9922 Front Street (M-72)
Empire, MI 49630

B) Authorized Concessioner Mark

- (1) If the Concessioner qualifies, it may prominently use the Concessioner Mark, in various promotional and informational applications including aboard vessels. Use of the Mark is not a contractual requirement. A Concessioner may only use the *Authorized Concessioner Mark* if they have received a "Marginal", "Satisfactory", or "Superior" Annual Overall Rating for the previous year.

C) Media Inquiries

All media inquiries concerning operations within the Area, questions about the Area, or concerning any incidents occurring within the Area, must be referred to the Chief Ranger. This includes all media interviews. However, media interviews and visits to Concession Facilities to report on Concessioner operations may be done with a courtesy notification to the Chief Ranger.

D) Complaints

- (1) The Service will forward complaints or comments regarding concession operations to the Concessioner for investigation. The Concessioner must respond within (5) days. The Concessioner must advise the Superintendent of any complaints it receives pertaining to the concession operation or any other aspect of Area operations within five (5) days of receipt. If the complaint is about the concession operation, a copy of the Concessioner's response must be included. A copy of the Service's response, if any, will be forwarded to the Concessioner. The Concessioner must maintain a complaint file at the place of business. This file is subject to review by Service evaluators.

E) Advertisements and Marketing

- (1) The Concessioner must submit any new or updated news releases, promotional material, or interpretive materials including websites, radio, television, or other media to the Service for review and approval at least 30 days prior to publication, distribution, broadcast, etc. The Superintendent must make every effort to respond to minor changes to brochure text within 15 days. The Service may require longer periods for major projects or where Service assistance is required to help develop the product. The Concessioner must contact Service staff well in advance to establish specific time frames for each project.
- (2) The Concessioner must assure that advertisements and schedules for services specifically required by the Draft Contract that occur in the Area are accurate and up to date.

- (3) When used, advertisements for employment must contain a statement that the Concessioner is an equal opportunity employer.
- (4) All advertising, brochures, and internet websites must indicate that the Concessioner operates within the "Sleeping Bear Dunes National Lakeshore" (e.g. not the "Manitou Islands") and is an authorized concessioner of the National Park Service.
- (5) Information about the Concessioner's operations in Sleeping Bear Dunes National Lakeshore, such as ferry schedules, handout literature, internet websites, social media sites, and advertising must include the following statement: *"Manitou Island Transit is authorized within Sleeping Bear Dunes National Lakeshore to provide the following services: ferry transportation service to North and South Manitou Island, motorized guided land tours of South Manitou Island, transportation of small watercraft, and charter transportation services to North and South Manitou Islands"*.
- (6) The Service may require the Concessioner to remove any unapproved promotional material.

6) Special Operating Standards and Requirements

A) General management

- (1) The vessels and crews must meet all Federal and State transportation licensing and certification standards, particularly those regulations promulgated by the USCG.
 - (a) A minimum of one vessel is required:

The vessel(s) shall be no longer than 80 feet in length with a maximum passenger capacity of 150. The U.S. Coast Guard requires that only the Captain operate the vessel. The capacities and length are required in order to access and maneuver around the various docks.
 - (b) If only one vessel is owned by the Concessioner, they must have a written contingency plan outlining how ferry service will continue as scheduled in the event that the sole vessel is inoperable.
- (2) Recycling: All vessels are required to have recycling receptacles for glass, aluminum, and plastic items. All receptacles must be clearly marked and clearly visible. The Concessioner must remove all recyclables from the vessels on a daily basis and place in the appropriate containers for transporting and recycling.
 - (a) The Concessioner will not use polystyrene (Styrofoam).
 - (b) The use of post-consumer recycled products whenever possible is encouraged.
 - (c) Reusable and recyclable products are preferred over 'throwaways'. Where the Concessioner must use disposable products, products that have the least impact on the environment will be used.
 - (d) The Concessioner must properly recycle or dispose of all trash on the mainland.

- (e) The Concessioner will use 100% biodegradable green paper products in lieu of plastic cups.
- (f) The Concessioner will use wooden stir sticks that are 100% biodegradable in lieu of plastic straws.

(3) Emergencies:

- (a) The Concessioner must immediately report all accidents or incidents involving more than ordinary first aid to the Chief Ranger at 231-326-4740 (office) or 231-492-5455 (cell) or Leelanau County Dispatch at 911 or 231-256-8800. If Leelanau is called, an incident report must be submitted to the Chief Ranger's office within 48 hours of the incident.
- (b) The Service provides emergency medical care within the Area. The Concessioner provides first aid for passengers on board the vessels. The Concessioner must report any injury sustained by a visitor or employee in a concession facility and all medical emergencies.
- (c) The Concessioner must report motor vehicle accidents to the Service.
- (d) Any observed criminal activity in the Area must be reported as soon as possible to an Area Law Enforcement ranger.

B) Specific Requirements

(1) Trip Requirements:

- (a) The Concessioner must pick up campers on the agreed specific day. In the event the Concessioner must cancel a trip due to weather or other physical impossibility, the Concessioner must reschedule the trip at the earliest possible time. In case of any unscheduled cancellation, the Concessioner must notify appropriate Service personnel in this order: island VUA staff, park dispatch at 231-326-4700 and the Chief Ranger by email.
- (b) Because the trips are more than an hour in duration, during which time passengers could be subject to inclement sea and weather conditions, the vessels must offer an indoor cabin area, working restrooms, and sufficient space to accommodate all passengers indoors.
- (c) Per the technical bulletin released on 3/1/18 regarding management of vomit on board vessels (see addendum #3): the Concessioner is required to provide motion sickness bags for use by visitors and the initial safety briefing should include the availability and location of same. Passengers should be instructed to inform a crewmember if they do vomit. Medication to treat the effects of motion sickness should also be sold on board the vessel as well.
- (d) Should a vomiting incident occur that is not contained in a motion sickness bag, crewmembers should cordon off the area, don personal protective equipment, and clean it up with products intended only for cleaning up vomit to limit transmission of other vomit-borne illnesses (such as norovirus). All contaminated material should be bagged securely and disposed of in the regular trash. Crewmembers should log the

incident and clean-up procedures. If an infectious disease is suspected, the local or State health department or the Service public health consultant should be informed.

(e) Concessioner must not exceed the vessels carrying capacity limits.

(2) Narrated Tours:

While en route to the islands, the Concessioner must provide narration. The Concessioner may provide narrated motor tours on South Manitou Island for Area visitors. The Concessioner must adhere to the following items when developing its narrated tours:

- (a) Audible: Visitors must be able to hear the narration clearly over the sound of the vessel.
- (b) Appropriate language and grammar: The Concessioner must assure the staff uses appropriate and courteous language.
- (c) The Concessioner must conduct live in-person narrated tours in such a way as provides opportunities for visitors to gain a greater awareness and appreciation for Area resources and significance.
- (d) Resource protection and preservation: The narration must address sensitive and significant Area resources including sandscapes, cultural resources, human waste, and wilderness values. The Concessioner will seek information where needed from the Service on current information, policy, results of research, etc. The Concessioner is encouraged to highlight the commitment and progress toward sustainable operations of both the Concessioner and the Service.

(3) Ferry Service:

- (a) A reservation system and a refund policy must be established and approved by the Service. At a maximum, the Concessioner may require a 20% surcharge for all cancellations on paid reservations—see full details in section 3.F.(3).
- (b) When reservations are made, including on the website, the Concessioner must inform the visitors of the entrance fees for the Area and how the visitors may pay them, or use passes for entry. The Concessioner must also inform visitors of group size limits.
- (c) The Concessioner will provide an interpretive program during the ferry ride to the islands. The program should provide passengers with an overview of the Area and the natural and cultural history of the islands.
- (d) The Concessioner may use the government dock on both North and South Manitou Islands for the ferry vessel to discharge and accept passengers, or wait for day visitors for the return trip. The Concessioner has a preference in docking rights over non-concession vessels during the times identified in this Operating Plan (section 3.B.3)). However, the Concessioner does not have exclusive use of the docks.

- (e) The Area is committed to the upkeep and maintenance of the docks on North and South Manitou Islands to ensure access by the Concessioner's vessels. However, any damage to the docks as a result of careless docking, or leaving the docks, or passing the docks at greater than no-wake speed is the responsibility of the Concessioner.

(4) *Motorized Vehicle Tours:*

- (a) The Concessioner may provide motor tours on South Manitou Island. The Concessioner will provide the vehicles which must be approved for use by the Superintendent.
- (b) The Concessioner will provide a sufficient number of trained, licensed, courteous drivers and support staff to meet the operating schedule. Personnel will wear appropriate uniforms. The Concessioner will adequately train staff members in safe operating procedures.
- (c) Tour motor vehicles shall be operated at speeds of 20 MPH or less. The weight must not exceed the vehicle's designated carrying capacity. Passengers will not be allowed to stand in the tour vehicle while it is in motion. Two tour routes may be offered. One tour can take visitors to the farm loop and cemetery and the other can travel via the Burdick, Ohio, and Shefler Roads to stop at the trailheads for both the cedar grove boardwalk and the view of the shipwreck Francisco Morazan.
- (d) The Concessioner will provide and be evaluated upon thematic interpretation (eg maritime history, plant ecology, island history). The Division of Interpretation is available to advise/assist the Concessioner in the development of an interpretive program.
- (e) The vehicles used for motor tours may be stored in the maintenance yard on South Manitou Island. No warranties are given to the security of the vehicles stored therein. Boarding/deboarding of these vehicles by visitors will not take place in the maintenance yard. Nothing else may be stored in the maintenance yard.
- (f) The vehicles may be fueled with Service fuel in the maintenance yard. The Concessioner may keep a fuel container in the west end of the maintenance yard in the flammable storage building. The Service will fill the can and record amount dispensed. The Service will bill the Concessioner at the end of the operating season at the rate paid for the fuel by the Service.

(5) *Food, Beverage, Souvenir, and Convenience Sales:*

- (a) All food and beverage items will maintain a price range that will accommodate the general range of Area visitors. Providing food and beverages on board ship is optional for the Concessioner. Any required local or state permits will be acquired. Food, beverage, souvenir, and convenience sales will be in compliance with Service rate approval guidelines.

(6) *Alcoholic Beverage Sales:*

- (a) Providing alcoholic beverages on board ship is optional for the Concessioner. When alcoholic beverages are served, the Concessioner will comply with the State of Michigan laws regarding alcoholic beverage sales. Licenses will be available on the vessels for inspection.
- (7) *Charter Service Trips:*
 - (a) Charters within the scope of this Operating Plan are defined as services provided on demand for the exclusive use of an individual or group. Charter services are not conducted as part of the daily schedule of Concessioner operations.
 - (b) The Service must approve charters in order to ensure the appropriateness of their activity within the Area and conformance with the provisions of this Contract. Proposals must be presented at least one (1) week in advance to ensure adequate time for review. Some charter trips may require a Special Use Permit.
 - (c) Charter vessels are subject to the 30 minute docking time limit, unless a waiver is granted by the Service. Any damage to the dock resulting from careless docking is the responsibility of the Concessioner.
- (8) *Transportation of kayaks, canoes, and stand-up paddleboards:*
 - (a) Rates for transportation of all kinds of watercraft must be approved by the Service.
- (9) *Website*
 - (a) On each page of its website where services specific to this contract are discussed, the Concessioner must include the following statement:
"Manitou Island Transit is authorized within Sleeping Bear Dunes National Lakeshore to provide the following services: ferry transportation service to North and South Manitou Island, motorized guided land tours of South Manitou Island, transportation of personal watercraft, and charter transportation services to North and South Manitou Islands".
 - (b) The reservation page as well as the general website must inform the visitors that the rate for travel to the islands does not include the Area entrance fee.
 - (c) The reservation page of the website must inform visitors of group size limits, and any camping reservations required.

7) Resource Protection

A) Integrated Pest Management.

The control of pests by chemical and other means is subject to Service approval. Specific problems can be referred to the Area's Integrated Pest Management Coordinator.

B) Exotic Plant Control.

- (1) The Concessioner will require all passengers, including Area and concession staff, to clean the bottom of their shoes or boots before boarding the vessel on the mainland to avoid inadvertently carrying the seeds of exotic or non-native plants to the islands.
- (2) The Concessioner must direct all customers transporting personal watercraft from the mainland to the islands to the Concessioner's website to read the following prior to departure:
 - Vessel owners are legally responsible for Aquatic Invasive Species decontamination prior to entering park waters. This applies to all vessels regardless of size or configuration.
 - Check your boat or paddleboard: remove all visible mud, plants, fish, or animals from personal watercraft and other equipment (rudders, skegs, fins, centerboards, etc.) before entering Sleeping Bear Dunes National Lakeshore
 - Drain all water from inside your canoe or kayak, live wells, bilges, and any other containers prior to entering Sleeping Bear Dunes National Lakeshore
 - Wash your boat and equipment thoroughly to remove plants and organisms that are not visible prior to entering Sleeping Bear Dunes National Lakeshore with either hot water (120-140 degrees), high pressure warm (>103F) water, or disinfectant.
 - Allow your watercraft to dry for a minimum of 5 days in a sunny location before transferring into a new body of water.
 - Do not release live bait or aquarium pets into any waters.
 - Discard fish waste in the trash.

8) Reporting Requirements

The Concessioner must provide report data in an MS Office-compatible electronic format. Upon request, the Concessioner must provide all supporting documentation for all operational reports to the Service.

A) Human Illness

The Concessioner must report information on human illnesses associated with food or water sources it offers on its boats immediately to the Chief Ranger. This information, along with other information received, must be evaluated by the NPS Midwest Region's United States Public Health Service (USPHS) Officer to help identify outbreaks of illness associated with contaminated water or food sources, or caused by other adverse environmental conditions. The Concessioner must make these reports by telephone.

B) Concessioner Financial Reporting

In addition to the annual financial report (AFR) required in the Contract, the Concessioner must provide the following financial reports:

- (1) **Franchise Fee Payments.** The Concessioner must make payments due to the Service through electronic funds transfers via the U.S. Department of the Treasury (pay.gov, ach, or fedwire). The Concessioner must submit a Monthly Financial Report electronically in the form prescribed by the Service to the Service, no later than the 15th day of each month for the previous month (or

on the next regular business day if the 15th falls on a weekend or on a federal holiday).

C) Concession Operational Reporting

- (1) Monthly Public Use Reports. The Concessioner must submit the Monthly public use figures in writing to the Park's Commercial Services Manager (Chief Ranger) no later than the 15th of the following month. The Concessioner must track and tabulate on a monthly basis during the operating season the following counts of passengers transported to the Area by the Concessioner:
 - (a) number of boat trips to each island
 - (b) number of passengers
 - (c) number of adult fares
 - (d) number of child fares
 - (e) number of land tour participants
 - (f) number of campers by island, broken down by day
 - (g) number of day users by island, broken down by day
 - (h) number of canoes/kayaks/stand-up paddleboards transported by island.

D) Summary of initial and recurring Report Due Dates

- (1) The following table summarizes the reporting requirements and details other reports, plans, payments, and inspections that will be the responsibility of the Concessioner.

Initial Requirements:

Title	Schedule	Due Date	Reference
Risk Management Plan	Initial/ Annual	Within 120 days after the Contract's award, updates due by December 31 of each year	Operating Plan, Sec. 4 A)
Complete Management List	Initial/ Annual	Within ninety (90) days of the execution of the Contract	Operating Plan, Sec. 3 G), (2), (b)

Annual Reports Due

Title	Schedule	Due Date	Reference
Annual Financial Report	Annually	Not later than 90 days after the last day of the Concessioner's fiscal year	Draft Contract, Sec. 7 (b),(1)
Schedule of Operations for approval	Annually	No later than February 1 for the next season	Operating Plan, Sec. 3 A),(3)
USCG annual Certificate of Compliance	Annually	Upon renewal	Operating Plan, Sec. 3 E),(2)
Rate Approval Requests	Annually	Feb 1 annually	Operating Plan, Sec. 3 C),(4)
Annual Overall Rating	Annually	Signed copy returned to the park by March 31	Operating Plan, Sec. 3 D),(5)
Certificates of Insurance	Annually	At the time insurance is first purchased and May 1 annually thereafter	Draft Contract, Sec. 6; Operating Plan, Sec. 3(E)(1)
Copies of any permits or licenses required by Federal, State, Tribal or local units of government	Annually	Upon renewal, prior to operating season	Operating Plan, sec 2) A), (5)
Copies of all staff USCG licenses	Annually	Upon renewal, prior to operating season	Operating Plan, sec 2) A), (7)
Copy of CPR and 1st aid certifications	Annually	Upon renewal, prior to operating season	Operating Plan, sec 3) G), (4)(e)
Inventory of hazardous chemical used and/or stored in the area	Annually	Prior to the operating season	Draft Contract, Addendum 1 Sec. 4) (a)
Inventory of waste streams generated on board the ferry or in the park	Annually	Prior to the operating season	Draft Contract, Addendum 1 Sec. 4) (a)

Monthly Reports Due:

Title	Schedule	Due Date	Reference
Franchise Fee	Monthly	By the 15th day after the last day of each month of operation	Draft Contract, Sec. 5 (b)
Franchise Fee Report	Monthly	By the 15 th day after the last day of each month of operation	Operating Plan, Sec. 8, B
Monthly Public Use Reports	Monthly	By the 15 th day after the last day of each month of operation	Operating Plan, Sec. 8, C

Other Reports Due:

Title	Schedule	Due Date	Reference
Visitor Complaints	As Necessary	Within 5 days after receipt of complaint	Draft Operating Plan, Sec. 5 D)
Promotional Material	As Necessary	At least 30 days prior to projected need	Draft Operating Plan, Sec. 5 E)

Addendum #1

RISK MANAGEMENT PROGRAM STANDARDS

PURPOSE

These standards define NPS minimum requirements for concessioner Risk Management Programs (RMPs) in accordance with NPS policy. The RMP is the management system the concessioner develops and implements to address the risk management aspects of its operations. Concessioners are independently responsible for developing and implementing an RMP of adequate scope and content to comply with all Applicable Laws and to provide for a safe and healthy environment for employees and visitors, irrespective of these RMP standards.

AUTHORITIES

NPS Management Policies (section 10.2.4.8) states that concessioners are responsible for managing all their operations to minimize risk and control loss due to accident, illness, or injury, and that concession contracts must contain requirements for each concessioner to develop a RMP that is (1) appropriate in scope to the size and nature of the operation, (2) in accord with the Occupational Safety and Health Act of 1970 and the NPS concession risk management program, and (3) accepted by the superintendent.

STANDARDS DEVELOPMENT AND UPDATE

The standards were developed in consideration of Applicable Laws, industry safety management standards (such as BS OHSAS 18001), NPS risk management and Operational Leadership policy and guidance, past NPS concession RMP policy and standards, and concessioner risk management practices. This standard will be periodically reviewed and may be revised to reflect changes in Applicable Laws, industry practices, or to provide program improvements.

RMP STANDARDS

The RMP standards defined by the NPS consist of the requirements associated with ten elements, identified in Table 1 below. While the RMP must address each of these elements, it should be specific to, and adequately address, the type and size of services the concessioner provides under its concession contract with the NPS. The RMP can, and should, be simple and flexible to ensure it is fully embraced and implemented by the concessioner's management and staff. More complex operations and services, or additional park requirements to prepare for specific events, may warrant a more detailed program with additional elements or sub-elements than those defined through the NPS standard.

Table 1 – NPS Concession RMP Elements

<u>1</u>	<u>Risk Management Program Scope</u>	<u>6</u>	<u>Reporting</u>
<u>2</u>	<u>Responsibility and Accountability</u>	<u>7</u>	<u>Inspections and Corrective Action</u>
<u>3</u>	<u>Training</u>	<u>8</u>	<u>Hazard Incident Investigations and Abatement</u>
<u>4</u>	<u>Documentation and Operational Controls</u>	<u>9</u>	<u>Management Review</u>
<u>5</u>	<u>Communication</u>	<u>10</u>	<u>Other Contract Requirements</u>

RMP Element 1 – Risk Management Program Scope

The concessioner must establish and maintain an RMP appropriate for the activities, size, and complexity of the operation.

Standards:

- 1.1 The RMP is documented, and its scope covers the ten risk management elements. Furthermore, the RMP scope addresses the risk management objectives and aspects applicable to the operation, including:
 - legal requirements (Applicable Laws), contract requirements (including requirements contained in Exhibits), and safety best management practices
 - employee and visitor hazards
 - operational, facility and natural hazards
- 1.2 The RMP establishes a safety policy for the organization. The policy indicates commitment to:
 - compliance with Applicable Laws and safety and health-related contract requirements
 - providing a safe and healthful environment for employees, park staff and visitors to the extent possible
 - assigning responsibilities
 - providing staff and resources
 - monitoring performance

RMP Element 2 – Responsibility and Accountability

The concessioner must establish the organizational structure, personnel roles and responsibilities, and resources needed to effectively implement the RMP.

Standards:

- 2.1 The concessioner identifies a safety and health official, and documents this assignment in the RMP.
- 2.2 The concessioner identifies the risk management organizational and staff responsibilities, and documents this structure and assignments in the RMP.

2.3 RMP resources are developed, documented in the RMP, and applied; resources are adequate to execute the program. Resources include:

- personnel (e.g., number of staff, experience and skills)
- facilities and equipment
- information, documentation, and data management systems
- agreements for support from outside contractors and agencies
- training programs for concession personnel

RMP Element 3 – Training and Qualifications

Personnel must be competent to perform the tasks assigned to implement the RMP.

Standards:

- 3.1 Managers and staff with safety and health responsibilities meet the qualification requirements defined in the contract and RMP. Competency requirements are defined by appropriate education, training, and experience.
- 3.2 A training plan is developed, documented in the RMP, and executed; and includes:
- Defined training requirements for the safety officer and other personnel, including requirements to meet Applicable Laws, the contract, and the RMP.
 - Required training records, such as training materials, schedules, and participant records.
- 3.3. The concessioner has conducted and documented all training.

RMP Element 4 – Documentation and Operational Controls

The concessioner must establish and maintain plans and procedures to manage operations and emergencies associated with its RMP. The number and complexity of these plans and procedures will depend on the size and complexity of the concessions operation. Some plans and procedures may be required by Applicable Law or the contract.

Standards:

- 4.1 RMP plans and standard operating procedures are developed, implemented, maintained, and included or referenced in the RMP. These plans and procedures address requirements in Applicable Laws, the contract, and the RMP to ensure safe operations. Some plans and procedures may overlap with those in the Environmental Management Program (EMP) and/or the Public Health Program (PHP). Examples of operating procedures include:
- Procedures for the safe storage and handling of chemicals
 - Procedures for embarking and disembarking visitors
 - Procedures for safe equipment use, maintenance, and inspection
 - Procedures for managing wildlife interactions
 - Procedures for animal pest exclusion

- Procedures for cancelling operations due to weather
- 4.2 RMP emergency plans and procedures are developed, documented (if applicable), implemented, maintained, and included or referenced in the RMP. These plans and procedures address requirements in Applicable Laws (e.g., Emergency Action Plan (EAP), Fire Prevention Plan (FPP), the contract, and the RMP. Some plans and procedures may overlap with those in the EMP and/or PHP. Emergencies to be addressed include:
- Natural disasters (earthquakes, floods, tornados, hurricanes, etc.)
 - Motor vehicle incidents
 - Medical emergencies (visitors and employees)
 - Fire (structural, motor vehicles, wildfires, etc.)
 - Terrorism and law enforcement activities
 - Accidents and fatalities (visitors and employees within park boundaries)

RMP Element 5 - Communication

The RMP must be effectively communicated internally to concession employees, and externally to park personnel, visitors, and to other parties that could be involved in the RMP.

Standards:

- 5.1 The RMP is available to staff and communicated throughout the concession organization so that personnel understand and can effectively implement the RMP.
- 5.2 The RMP addresses procedures for communicating hazards to visitors. The hazards may include:
- Activity-related hazards (e.g., white water rafting)
 - Natural resource-related hazards (e.g., bears)
 - Facility-related hazards and procedures (e.g., property evacuation maps)
- 5.3 Any visitor acknowledgment of risk is approved by the park. Waivers of liability are not used.
- 5.4 The concessioner's risk emergency plans are coordinated and agreements in place with other applicable parties such as the NPS, other federal, state, or local emergency response agencies.

RMP Element 6 – Reporting

As part of its RMP, the concessioner must develop and implement procedures for reporting internally within the concession organization, and externally to the park and other regulatory agencies.

Standards:

- 6.1 All documents, reports, monitoring data, manifests, notices and other documentation required to be submitted to regulatory agencies are submitted on time and in accordance with Applicable Laws. Copies of such communications are provided to the NPS in accordance with the contract. Additional plans, reports, and other documentation are submitted to the NPS in accordance with the contract and RMP.
- 6.2 Imminent danger and serious incidents are reported to the park in a timely manner in accordance with the contract and RMP.
- 6.3 Annual reports include internal, park, and other regulatory agency risk data, and are submitted to the NPS in accordance with the contract and RMP.

RMP Element 7 – Inspections and Corrective Action

Concessioners must develop and implement safety inspection processes to identify risk management issues. Inspections must be conducted by persons trained and capable of recognizing and evaluating the applicable aspects of the operation. Inspections may be conducted for the concessioner by a qualified third party.

Concessioners must also develop and implement a process for abating deficiencies identified through their inspection processes or by any regulatory agency.

Standards:

- 7.1 Safety inspections are conducted as required by Applicable Laws, specified in the contract and RMP, or as otherwise necessary to effectively manage operations safely. Formal and routine inspections are scheduled, conducted, and documented. The inspections are conducted by qualified personnel as described in the RMP.
- 7.2 Imminent danger, serious, and non-serious hazard deficiencies identified by internal or external inspections are analyzed, corrected, or mitigated within the contract or RMP required timeframes. Any deviations from these timeframes are accepted by the park and documented.

RMP Element 8 – Emergency Incident Investigation and Abatement

Concessioners must develop and implement procedures to address accidents/incidents as part of its RMP. Standards:

- 8.1 Accidents/incidents are responded to in a timely and effective manner.
- 8.2 An investigation is conducted for every accident/incident.
 - The investigation includes an analysis to determine the cause.
 - Corrective action is taken to mitigate recurrences of the accident/incident.

RMP Element 9 – Management Review

Concessioners must conduct a management review of the RMP at least annually to ensure its continued suitability, adequacy, and effectiveness. This review should consider performance against internal indicators such as health and safety goals and objectives. The review must also consider program failures that occurred during the year. The RMP must be modified to reflect any necessary changes to address any program gaps required.

Standards:

9.1 The RMP is reviewed at least annually, and updated as necessary.

- The RMP review includes analysis of performance in each RMP element area to determine any systemic program failures (particularly failures that resulted in fatal or serious accidents/incidents or imminent danger hazard deficiencies) and non-compliance with Applicable Laws.
- Systemic problems are addressed in RMP updates.

9.2 The initial RMP is submitted to the park within the contract specified timeframe for review, and is accepted by the park. Any subsequent documented RMP updates are submitted to the park for review and acceptance.

RMP Element 10 – Other Contract Requirements

In addition to the requirements outlined for other RMP elements, the concession contract may have additional risk management requirements in the contract, operating, or maintenance plans that are *de facto* standards.

10.1 Contract-specific safety and health requirements not otherwise addressed in the RMP standards are met.

DEFINITIONS

Applicable Laws: The laws of Congress governing the Area, including, but not limited to, the rules, regulations, requirements and policies promulgated under those laws (e.g., 36 CFR Part 51), whether now in force, or amended, enacted or promulgated in the future, including, without limitation, federal, state and local laws, rules, regulations, requirements and policies governing nondiscrimination, protection of the environment and protection of public health and safety.

Concession Contract: A binding written agreement between the NPS Director and a concessioner entered into under 36 CFR 51. It authorizes concessioners to provide certain visitor services within a park under specified terms and conditions. All NPS concessioners awarded concessions contracts that are based on the standard concession contract provisions published in the Federal Register on May 4, 2000 (65 FR 26051-26086: Part III, Department of the Interior, National Park Service, Standard Concession Contract; Revision; Notice), are required under Section 4 of the standard concession contract to prepare and submit an initial written RMP to the park within 60 days of the effective date of their concession contract for acceptance.

Deficiencies: Deficiencies are classified into one of three categories.

- Imminent danger: A condition or practice with potential for loss of life or body part, permanent disability, and/or extensive loss of structure, equipment or material.
- Serious hazard: A condition or practice with potential for serious injury or illness resulting in temporary disability or property damage that is disruptive, but less severe than imminent danger.
- Non-serious hazard: A condition or practice with potential for minor non-disability injury or illness or non- disruptive property damage.

Emergency Action Plan (EAP): Emergency plan required under 29CFR 1910.38(a) to ensure visitor and employee safety. EAP emergencies include:

- Natural disasters (earthquakes, floods, tornados, hurricanes, etc.)
- Motor vehicle incidents
- Medical emergencies (visitors and employees)
- Fire (structural, motor vehicles, wildfires, etc.)
- Terrorism and law enforcement activities
- Accidents and fatalities (visitors and employees within park boundaries)
- Hazardous spills or releases

Fire Prevention Plan (FPP): Fire prevention plan required under 29CFR 1910.39 to address fire safety.

Incident: Incidents which must be reported to the park include:

- Fatalities
- Visitor incidents which could result in a tort claim against the United States
- Property damage incidents over \$500
- Employee injuries requiring more than first aid treatment
- Any fire
- Motor vehicle accidents over \$250
- Others as defined in the contract

Timely: The period of time reasonable under the circumstances. Corrective action for deficiencies is completed within the maximum time limits:

- Imminent danger: immediately
- Serious hazard: 15 days
- Non-serious hazard: 45 days

RESOURCES

For more detailed guidance on the Risk Management Program, please refer to the sample Risk Management Plan at:

https://concessions.nps.gov/docs/concessioner%20tools/Risk_Mgmt_Program_Sample.pdf

**Addendum #2
Draft Third Party Sales Agreement**

Agreement Number --- TBD ----

VENDOR AGREEMENT –

Third Party Local

Sleeping Bear Dunes National Lakeshore National Park Service

And [COMPANY NAME]

RECITALS

A. Third party sales are used to increase the convenience of purchasing National Park Service (“NPS”) passes or preprinted entrance receipts and are an important component of the NPS Recreation Fee Program. The objective of this Agreement is to ensure consistent managing of the marketing and sales of the “America the Beautiful – the National Parks and Federal Recreational Lands Annual Pass, “Sleeping Bear Dunes National Lakeshore Annual Pass” and/or “Preprinted - Seven (7) Day Entrance Receipts” [hereafter collectively referred to as “Pass(es)”].

Developing partnerships with third party vendors:

1. Increases opportunities for education about public lands.
 2. Helps promote support and stewardship of public lands.
 3. Provides convenient public sales outlets for the Passes.
- B. [COMPANY NAME] (“Organization”), ADDRESS, a concessioner operating under concession contract SLBE005-19, who provides sightseeing ferry/tour boat services as well as guided motorized land tours in Sleeping Bear Dunes National Lakeshore.
- C. This Agreement is entered into under the authority of the Federal Lands Recreation Enhancement Act of 2004, 16 USC 6801-6814 *et seq.*, as well as other National Park Service and departmental authorities supporting promotion and protection of public lands.
- D. The Federal Lands Recreation Enhancement Act established the name of the Interagency Annual Pass as the “America the Beautiful – the National Parks and Federal Recreational Lands Pass.” The phrase “America the Beautiful” is trademarked; therefore, except as provided for in this Agreement, using it or an abbreviated acronym such as “ATB” is not permitted.

AGREEMENT

ARTICLE I Responsibilities of the Parties

A. NPS agrees to:

1. Provide accurate product and supplemental materials in a timely manner.
2. All Passes are accountable property coded with unique serial numbers. Information indicating the serial numbers of the Passes within bulk shipments will be provided to the Organization with each shipment.
3. Provide accurate general information and prompt responses to questions about the Passes through the contact listed in Article VII.A.
4. Provide high resolution image(s) of the Passes and collateral material upon request by the Organization for approved promotion(s).

B. The Organization agrees to sell the Passes according to the following business rules:

1. Pass Rules, Sales and Validation Procedures

- a. During the term of this Agreement, the Organization is authorized to sell Passes through its retail locations.
- b. The Organization is NOT authorized to sell any Passes through any website.
- c. The Organization is not authorized to duplicate any of the Passes for resale.
- d. The Organization shall issue supplemental materials to each customer, which for the America the Beautiful – the National Parks and Federal Recreational Lands Annual Pass shall include a brochure and hangtag, and a park map/brochure to be provided by NPS, in conjunction with each Pass sold by the Organization.
- e. Employees and representatives of The Organization will advise its customers of the following Pass regulations: (a) each individual who purchases an America the Beautiful – the National Parks and Federal Recreational Lands Annual Pass or a Sleeping Bear Dunes National Lakeshore Annual Pass is required to sign the back of the pass and present identification at sites where the pass is accepted; and (b) all Passes are non-transferable and non-replaceable if lost or stolen.
- f. The Organization must validate each Pass at the time of sale. All America the Beautiful—the National Parks and Federal Recreational Lands Annual Passes or Sleeping Bear Dunes National Lakeshore Annual Passes sold will be punched with the current month through the end of the current month. The Organization will validate all Preprinted Seven-Day Entrance Receipts by writing the purchase and expiration date on the pass at time of sale.
- g. The Organization is required to use hole punches that punch a hole no larger than 1/8 of an inch for all annual passes.

- h. No returns of Passes by customers will be allowed. The Organization's promotional materials shall advise consumers that all Passes are non-refundable.
- i. All America the Beautiful—the National Parks and Federal Recreational Lands Annual Passes or Sleeping Bear Dunes National Lakeshore Annual Passes will be sold with a full 12 months of use from the month of purchase. Passes will not be sold after December 31 of the year in which they were issued (*i.e.* 2010 Passes cannot be sold after December 31, 2010).
- j. The Organization will not charge any sales tax on the sale of any Pass.
- k. The Organization will provide a main point of contact for Pass sales to NPS pursuant to Article VII of this Agreement.

2. Marketing and Promotion

- a. NPS reserves the right to review and approve any advertising, publicity or other material prepared by The Organization (the "Organization Materials") for any promotional campaign for public distribution. The Organization shall promptly provide NPS notice any time that a promotional campaign is planned or predicted. NPS shall then promptly provide notice to the Organization if further review is required. Granting of approval may be based on whether the Organization Materials, in the sole reasonable discretion of the NPS, properly reflects U.S. Government agency missions; conveys an educational message; promotes appropriate and responsible behavior at federal recreation sites and/or encourages continued public support and preservation of public lands.
- b. By entering this Agreement, NPS does not directly or indirectly endorse any product or service provided or to be provided by the Organization, its successors, assignees or licensees. The Organization shall not in any way imply that this Agreement is an endorsement of any product or service.
- c. During the term of this Agreement, and solely in furtherance of sales of the Passes, the Organization shall be permitted to reproduce a graphic of the Passes, in the form attached hereto as Exhibit A pursuant to the license in Article IV of this Agreement.
- d. The Organization will not publicize or otherwise circulate promotional material related to Passes (such as advertisements, sales brochures, press releases, speeches, still or motion pictures, articles, manuscripts, or other publications) that state or imply U.S. governmental, departmental, bureau, NPS, or government employee endorsement of a product, service, or position that the Organization represents. No release of information relating to this Agreement may state or imply that the U.S. Government or NPS approves of the Organization's work or product or considers The Organization's work or product to be superior to other products or services.

- 3. The obligations set forth in Article I.B.2 hereof shall survive the termination of this Agreement.

4. Pass Price; Organization Re-Sale

- a. The Organization shall offer the America the Beautiful – the National Parks and Federal Recreational Lands Annual Pass to its customers for \$80.00, the Sleeping Bear Dunes National Lakeshore Annual Pass for a price of \$45.00 and the Preprinted Seven-Day Entrance Receipt for a price of \$25.00.
- b. The Organization may not add any additional fees, including but not limited to processing or administrative fees, to the price of a Pass.

5. Ordering

- a. All Passes will be provided to the Organization by NPS.
- b. The Organization may make payment for all Passes via approved credit card, or in U.S. funds by check or money order at the time orders are placed or upon product receipt. When payment is made at time of delivery, payment is due to NPS no later than 30 days after receipt of Passes. Payment of all previous orders must be received before additional orders may be placed.
- c. Interagency Annual Passes will be sold to the Organization at a wholesale rate of \$72.00, Sleeping Bear Dunes National Lakeshore Annual Pass for a price of \$40.50, and the Pre-paid Seven-Day Entrance Pass for a price of \$22.50.
- d. Exchange of Stock for Pre-Purchased Passes
 - i. Exchange of stock refers to the Organization exchanging its unsold 2019 inventory for replacement with 2020 inventory. The policy may be modified or terminated if accountability and manageability problems arise.
 - ii. The Organization must be an actively participating vendor with a valid agreement for subsequent year in order to exchange stock from preceding year. That is, in order to exchange unsold 2019 inventory for replacement 2020 inventory, the Organization must have a valid agreement for 2020. If the Organization does not have a valid partner agreement for 2020, the Organization will not be permitted to return or exchange any unsold current year 2019 inventory.
 - iii. One return will be allowed per agreement for the preceding calendar year. If the Organization has more than one sales outlet, the Organization will be responsible for condensing all stock into one return.
 - iv. All 2019 Pass returns must be received by March 30, 2020. Multiple returns from the Organization will not be processed. Returns received after March 30, 2020 will not be processed.

- v. All returned Passes must be properly recorded and accounted for (by serial #) when submitted to NPS for processing. Stock that is submitted without proper documentation will be returned to the Organization.
- vi. In years where there is no change or a decrease in the price of the Passes, returned passes will be replaced on a one-to-one basis for current year stock (for example, ten 2008 passes replaced with ten 2009 passes). If the price of the Pass increases, the Organization will be responsible for remitting the difference between the price of the old and new passes.

ARTICLE II Term of Agreement

This Agreement will be effective for the period of January 1, 2019, or from the date of the last signature below (whichever is later) through December 31, 2019, unless terminated earlier by one of the parties pursuant to Article III, below.

ARTICLE III Modification and Termination Clause

- A. This Agreement may be modified only by a written modification signed by the parties.
- B. Either party may terminate this Agreement by providing the other party thirty (30) days advance written notice. Termination may be "for cause" (nonperformance of contractual obligations, including the material and/or repeated failure to follow any of the terms or conditions of this Agreement) or it may be without cause. One party's waiver of the other party's nonperformance in one or more instances shall not constitute a waiver of the right of any party to require strict performance in the future.
- C. It is preferable that, before one party provides the other party with notice of its intention to terminate either "for cause" or without cause, the parties meet to discuss the reasons for this action and work amicably to resolve their differences, if any. Such a meeting also may be desirable and effective after such notice is given.
- D. Termination of this Agreement shall not extinguish any obligation hereunder with respect to the Organization's duty to account for Passes delivered by NPS, to otherwise properly honor and promote relevant limitations on time, transferability, or other Pass attributes, to process and fulfill any order placed by any member of the public prior to termination, or any other obligation expressly non-extinguishable hereunder.
- E. Should the Organization decide to terminate the agreement, Pass stock returned to NPS will be refunded at 50% of the purchase price. If the agreement is terminated and a refund issued to Organization, Organization will not be eligible to participate in the program for a period of three years.
- F. Full refunds of unsold stock may be offered, at the sole discretion of NPS, if NPS terminates the agreement or if the program terminates or changes as a result of legislation.

ARTICLE IV License

During the term of this Agreement, NPS grants Organization a limited, nontransferable, non-sublicenseable, nonexclusive license to the Pass names and images attached hereto as Exhibit A solely in connection with approved marketing of the Entrance Passes.

ARTICLE V Representations, Liability and Indemnification

- A. NPS represents and warrants that it has the right to grant the license herein for all commercial advertising, trade, and promotional uses of the Passes and/or the underlying photographic image used on the Passes. Subject to the following conditions, NPS assumes liability for any third-party infringement claim related to or arising from the representation contained in the foregoing sentence. Organization shall promptly report in reasonable detail each notice or claim of trademark, copyright, or patent infringement.
- B. Except as expressly provided in this Agreement, neither party shall be liable to the other for any indirect, consequential, incidental, exemplary, punitive or special damages, including, but not limited to, any loss of profit or revenue, arising from or in connection with any breach or violation of the agreement or from any action or omission relating to the agreement, whether or not the other party has been advised of the possibility of such damage.
- C. This Section shall survive termination of this Agreement.

ARTICLE VI Standard Clauses

- A. **Non-Discrimination.** During the performance of this Agreement, Organization will not discriminate against any person because of race, color, religion, sex, or national origin, in either their own employment practices, or in marketing and sale of the Passes.
- B. **Public Information Release.** Neither party will unilaterally publish data regarding the Pass sales or the performance of this Agreement, including without limitation, results of any studies related to the pass program, without consulting with and obtaining approval from the other party; except that NPS may make available the number of passes sold by third party organizations. This obligation shall survive the termination of this Agreement.
- C. **Conflict-of-Interest and Reporting.** Unless otherwise disclosed, Organization represents and warrants that neither it nor any of its principals, directors, owners, assigns, or affiliates is engaged in any administrative or judicial litigation or other proceeding before or against the U.S. Department of the Interior or the U.S. Department of Agriculture or any of their agencies or bureaus. If Organization, or any of its principals, directors, owners, assigns, or affiliates are or, during the term of this Agreement should become, involved in such a matter or proceeding before either Department or its agencies or bureaus, Organization shall promptly disclose this. Such involvement will *not* automatically result in termination of this Agreement, but shall be considered based upon its unique facts and circumstances.

Organization will provide to NPS a list of contracts or agreements they are party to with the Departments of the Interior or Agriculture or their agencies or bureaus. Should Organization become involved in any additional contracts or agreements with the Department, or its agencies or bureaus, Organization shall promptly disclose this.

- D. Non-Obligation. Nothing herein shall be construed to obligate the U.S. Government to expend any sum in excess or advance of appropriations.
- E. No Third-Party Benefit. The terms and conditions of this Agreement are by and between the parties only and nothing herein is or shall be construed to benefit or be enforceable by any third-party.
- F. Organization may not assign or otherwise transfer this Agreement or any of its rights and obligations under this Agreement or any portion of this Agreement, whether voluntarily or involuntarily, without the prior written approval of NPS.

ARTICLE VII Key Officials, Signatures and Dates

- A. Key officials are essential to ensure maximum coordination between the parties and the work being performed. They are:

For the NPS:

[PRIMARY CONTACT NAME]

Sleeping Bear Dunes National Lakeshore
9922 Front St
Empire, MI 49630
[PHONE
EMAIL]

For [ORGANIZATION NAME]

PRIMARY CONTACT NAME
ADDRESS,

PHONE,
EMAIL]

- C. Changes in key officials. Neither the NPS nor the Organization may make any permanent change in a key official without written notice to the other party reasonably in advance of the proposed change. The notice will include justification with sufficient detail to permit evaluation of the impact of such change in the scope of work specified within this Agreement. Any permanent change in key officials will be made only by modification of this Agreement.

ARTICLE VIII Miscellaneous

- A. The validity, interpretation and construction of this Agreement, and all other matters related to this Agreement, shall be governed and interpreted in accordance with the laws of the United States of America.
- B. This Agreement is the entire Agreement between the parties and supersedes all prior or contemporaneous Agreements, representations or negotiations between the parties.

In Witness hereof, the parties hereto executed this Agreement on the date(s) set forth below.

National Park Service

[ORGANIZATION NAME]

Scott Tucker

[NAME]

Superintendent

[TITLE]

Sleeping Bear Dunes National Lakeshore

Date

Date

Exhibit A

**Graphic of “America the Beautiful – the National Parks and Federal Recreational Lands Pass”
and/or Preprinted Receipt**

[INSERT GRAPHIC(S) of CURRENT YEAR’S PASS(ES) AND/OR PREP

Addendum #3
Technical Bulletin: Vomit Management



United States Department of the Interior
NATIONAL PARK SERVICE
1849 C Street, N.W.
Washington, D.C. 20240

IN REPLY REFER TO:

ELECTRONIC COPY, NO HARD COPY TO FOLLOW

March 1, 2018

(2410)

TECHNICAL BULLETIN

To: Regional Concession Chiefs

From: Chief, Commercial Services Program /s/ *Brian Borda*

Subject: Management of Vomit on Board Vessels, Aircrafts, and Vehicles and
Distribution of Motion Sickness Medications across State Lines

PURPOSE

This technical bulletin was developed in consultation with the National Park Service (NPS) Office of Public Health (OPH) and addresses the minimum requirements for the development of concessioner procedures to manage vomit on board ferry vessels, aircraft or buses and to provide retail sales of motion sickness medication.

BACKGROUND

NPS operators, as concessioners contracted with the NPS, are obligated under the terms of their contract to develop and implement procedures to manage incidents that may impact public health. These should include procedures for the proper management of vomit from sick visitors. Motion sickness medication can be helpful in preventing such incidents. However, there may be specific rules and regulations pertaining to the transportation of those medicines across state lines.

Vomiting occurring on vessels, aircraft, and buses is frequently due to motion sickness; however, vomiting may also be caused by infectious diseases, such as norovirus, which is a common and highly contagious cause of gastrointestinal illness. An infectious disease, rather than motion sickness, should be considered especially if the passenger states that he/she felt sick prior to boarding the vessel, aircraft or vehicle or if the passenger states that he/she had been in contact with other people with vomiting prior to boarding. In addition, if the vomit contains blood, it can carry blood-borne pathogens, such as hepatitis B, hepatitis C, and human immunodeficiency virus (HIV). In order to protect health and prevent the spread of disease, vomit should be treated as potentially infectious material.

MANAGING VOMITING INCIDENTS

Containment:

In the past, some concessioners have asked that sick passengers hang their head over the rail or step off the vehicle and use the side of the road to deal with vomiting incidents. These are inadequate processes as they can be both uncomfortable and dangerous. Relying on restroom toilets that may not be accessible in time for a visitor to use is also not an adequate plan. Instead, concessioners like other commercial ferry, airline and vehicle tour companies, should provide motion sickness bags for use by visitors.

Initial Communication to Passengers:

The initial safety briefing for the transportation service to passengers should include the possibility of motion sickness and the availability and location of motion sickness bags. The passengers should also be instructed to notify the operator (e.g., ferry crewmember) if they vomit.

Use of Personal Protection:

Responders should protect themselves from the possible transmission of infectious diseases. Thorough and frequent handwashing is essential. Disposable gloves should always be used when handling items around a vomiting incident, including motion sickness bags. Additional Personal Protective Equipment (PPE) that can protect a responder during cleanup after a vomiting incident includes facemasks with eye protection, shoe covers, and disposable gowns.

Cleaning:

In the event that the vomiting incident was not contained in a motion sickness bag, thorough clean-up is needed. Cleaning supplies (e.g. disposable paper towels, a bucket, a spray bottle, a designated mop head or disposable mop heads, plastic garbage bags and bag-ties, and optional disposable scoops, small shovels, dustpans, sand, cat litter, or commercial absorbent powder) should be available and accessible.

The area around a vomiting incident within a 25-foot radius, should be cordoned off, thoroughly cleaned and disinfected. The Centers for Disease Control and Prevention (CDC) suggests that in the case of possible norovirus infection, a freshly-made chlorine bleach solution with a concentration of 1000–5000 ppm (5–25 tablespoons of household bleach [5.25%] per gallon of water) or other disinfectant registered as effective against norovirus by the Environmental Protection Agency (EPA) be used (<https://www.epa.gov/pesticide-registration/list-g-epas-registered-antimicrobial-products-effective-against-norovirus>). Contaminated clothes or linens should be immediately removed and washed in hot water using the longest available cycle and dried on the hottest setting. Hands should be thoroughly washed.

Disposal:

Motion sickness bags and other contaminated material should be disposed of in a manner that prevents transfer of the materials to other surfaces or persons. The used motion sickness bag, solid clean-up materials and contaminated PPE should be collected in a plastic bag and secured and can be disposed of in the regular trash.

Any material that has visible blood should be considered biohazardous waste and requires disposal via an authorized waste disposal vendor. More information on biohazardous waste disposal businesses can be found at Michigan Department of Environmental Quality. Any non-disposable equipment that was used (e.g., mops) must also be properly sanitized.

Reporting:

Responders should log the incident and clean-up procedures. If the concessioner suspects the vomiting to be related to an infectious disease and that other passengers might be at risk for acquiring the infection, he/she should contact their local or State health department or the NPS OPH public health consultant and communicate the information to the park concession specialist.

MEDICATIONS TO TREAT MOTION SICKNESS

Medications are available to treat the effects of motion sickness (i.e., Dramamine), and it is recommended that transportation service providers with retail operations sell these products for visitors. There may be State regulations that prevent the sale of such motion sickness medications onboard when the aircraft, vessel or vehicle is traveling from one State to another. If this is the case, these medications should be offered for sale at boarding locations so passengers are able to purchase them in advance. In these cases, customers should be made aware by the concessioner that medications will not be available while on board.

RESPONSIBILITIES AND LIMITATIONS

Concessioners are responsible for providing safe and healthy services for visitors and employees and for understanding applicable laws, regulations and policy requirements of their contract.

The procedures outlined in the technical bulletin are advisory and the concessioner should seek its own experts if it has questions in meeting the NPS requirement for providing motion sickness bags, responding to and cleaning up incidents, and selling motion sickness medications.

DISTRIBUTION

Please distribute this memorandum to park concessions managers in your region.

FEEDBACK AND QUESTIONS

For further information, contact Kurt Rausch, Contract Management Branch Chief, NPS Commercial Services Program at 202.513.7202. or Dr. Maria Said, Epidemiology Branch Chief, NPS Office of Public Health at 202-513-7151.

RESOURCES

- ☐ National Institute for Occupational Safety and Health (NIOSH). Bloodborne infectious diseases: HIV/AIDS, Hepatitis B, Hepatitis C. Available at: CDC
- ☐ Occupational Safety and Health Administration. Occupational Safety and Health Standards, Bloodborne Pathogens. Available at: OSHA
- ☐ CDC. Norovirus. Available at: <https://www.cdc.gov/norovirus/>.

EXHIBIT C**ASSIGNED GOVERNMENT PERSONAL PROPERTY**

Government personal property is assigned to the Concessioner for the purposes of this Contract as follows:

Property Number	Description of Item
None	

Approved, effective 3.20, 2019

By: Patricia S. Trap
Patricia S. Trap
Acting Regional Director, Midwest Region

EXHIBIT D**INSURANCE REQUIREMENTS****SEC. 1. INSURANCE REQUIREMENTS**

The Concessioner shall obtain and maintain during the entire term of this Contract, at its sole cost and expense, the types and amounts of insurance coverage necessary to fulfill the obligations of the Contract. No act of the Concessioner, its agents, servants, or employees may impair any and all insurance coverage provided for the benefit of, or evidenced to the Service. The Concessioner must provide the Service with an unconditional 30-day advance notice of cancellation of coverage or policy terms on all liability and workers' compensation insurance policies.

The amounts of insurance, limits of liability, and coverage terms included are not intended as a limitation of the Concessioner's responsibility or liability under the Contract, but rather an indication as to the minimum types, amounts, and scope of insurance that the Service considers necessary to allow the operation of the concession at the Area. Nevertheless, if the Concessioner purchases insurance in addition to the limits set forth herein, the Service will receive the benefit of the additional amounts of insurance without cost to the Service.

SEC. 2. LIABILITY INSURANCE

The Concessioner must maintain the following minimum liability coverages, all of which, unless noted herein, are to be written on an occurrence form of coverage. The Concessioner may attain the limits specified below by means of supplementing the respective coverage(s) with excess or umbrella liability as explained below.

(a) Commercial General Liability

- (1) The Concessioner must obtain coverage for bodily injury, property damage, contractual liability, personal and advertising injury liability, and products and completed operations liability. The Concessioner must provide the following minimum limits of liability:

Per Occurrence	\$ (Included in Watercraft Liability)
Personal and Advertising Injury Liability	\$
General Aggregate	\$
Products and Completed Operations Aggregate	\$
Medical Payments	\$

- (2) The liability coverages may not contain the following exclusions/limitations:

Athletic or Sports Participants
 Contractual Liability
 Personal and Advertising Injury exclusion or limitation
 Products and Completed Operations

(b) Automobile Liability

The Concessioner must provide coverage for bodily injury and property damage arising out of the ownership, maintenance or use of "any auto," Symbol 1. Use of Symbol 7, "specifically described autos," is acceptable when an insurer will not provide Symbol 1 because that insurer does not provide coverage for all of the Concessioner's owned "autos." Where there are no owned autos, the Concessioner will provide coverage for "hired autos" and "non-owned autos," Symbols 8 and 9. Garage-keepers' liability is to be included on a

"direct" basis for all Concessioner operations handling, parking or storing automobiles owned by others for a fee.

Combined Single Limit Each Accident	\$1,000,000
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(c) Excess Liability or Umbrella Liability

The Concessioner may use an Excess or Umbrella Liability policy to achieve the commercial general liability and automobile liability limits set forth above. The limit of liability under the excess policy must be in an amount that together with the subordinate policy meets the minimum limit of liability required.

The Concessioner is not required to provide excess liability or umbrella liability coverage, but may use it to supplement any insurance policies obtained to meet the minimum requirements of the Contract. If maintained, the Concessioner will provide coverage for bodily injury, property damage, personal injury, or advertising injury liability in excess of scheduled underlying insurance. In addition, coverage must be at least as broad as that provided by underlying insurance policies and the limits of underlying insurance must be sufficient to prevent any gap between such minimum limits and the attachment point of the coverage afforded under the Excess Liability or Umbrella Liability policy.

(d) Liquor Liability (if applicable)

The Concessioner must provide coverage for bodily injury and property damage including damages for care, loss of services, or loss of support arising out of the selling, serving, or furnishing of any alcoholic beverage.

Each Common Cause Limit	\$1,000,000
Aggregate Limit	\$0

(e) Watercraft Liability (or Protection and Indemnity)

The Concessioner must provide coverage for bodily injury and property damage arising out of the use of any watercraft.

Each Occurrence Limit	\$10,000,000; or U.S. Coast Guard requirement for passenger ferry on Lake Michigan, whichever is greater.
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Tower's liability shall be maintained at the same each occurrence limit if the Concessioner tows or transports non-owned vessels by water.

(f) Environmental Impairment Liability (or Pollution Liability) (not applicable)

The Concessioner will provide coverage for bodily injury and property damage arising out of pollutants or contaminants on-site and off-site and for cleanup.

Each Occurrence or Each Claim Limit	\$
Aggregate Limit	\$

(g) Aircraft Liability (not applicable)

The Concessioner must provide coverage for bodily injury (including passengers) and property damage arising out of the use of any aircraft.

Each Person Limit	\$
Property Damage Limit	\$
Each Accident Limit	\$

The Concessioner must maintain airport liability insurance at a limit of at least \$____ if the Concessioner maintains landing facilities for use by third parties. Hangerkeeper's liability shall be maintained at a limit sufficient to cover the maximum estimated value of non-owned aircraft in the Concessioner's care, custody or control if the Concessioner provides aircraft storage to third parties.

(h) Professional Liability, e.g. dive instructor, massage therapist (not applicable)

The Concessioner must maintain, or cause professionals working on its behalf to maintain, professional liability insurance for all professional services provided by or on behalf of the Concessioner.

Each Occurrence Limit	\$
Aggregate Limit	\$

(i) Deductibles/Self-Insured Retentions

The Concessioner's self-insured retentions or deductibles on any of the above described liability Insurance policies (other than umbrella liability, environmental impairment liability or professional liability, if maintained) may not exceed \$5,000 without the prior written approval of the Director. Deductibles or retentions on umbrella liability, environmental impairment liability and professional liability may be up to \$25,000.

(j) Workers' Compensation and Employers' Liability

The Concessioner must obtain coverage that complies with the statutory requirements of the state(s) in which the Concessioner operates. The employer's liability limit will not be less than \$1,000,000.

If the Concessioner's operations include use of watercraft on navigable waters and employ persons in applicable positions, a Maritime Coverage Endorsement must be added to the Workers' Compensation policy, unless coverage for captain and crew is provided in a Protection and Indemnity policy.

If Concessioner operations are conducted in proximity to navigable waters and employ persons in applicable positions, United States Longshore and Harbor Workers' Compensation Act coverage must be endorsed onto the Workers' Compensation policy.

SEC. 3. INSURANCE COMPANY MINIMUM STANDARDS

All insurance companies providing the above described insurance coverages must meet the minimum standards set forth below:

- (1) All insurers for all coverages must be rated no lower than A- by the most recent edition of Best's Key Rating Guide (Property-Casualty edition), unless otherwise authorized by the Service.
- (2) All insurers for all coverages must have a Best's Financial Size Category of at least VII according to the most recent edition of Best's Key Rating Guide (Property-Casualty edition), unless otherwise authorized by the Service.

SEC. 4. THIRD PARTY INSURANCE

Concessioners entering into contracts with third parties for various services or activities that the Concessioner is not capable of providing or conducting, must ensure that each third party retained for such work maintain an insurance program that adequately covers the activity and comply with all the requirements applicable to that party's own insurance.

SEC. 5. CERTIFICATES OF INSURANCE

All certificates of insurance required by this Contract shall be completed in sufficient detail to allow easy identification of the coverages, limits, and coverage amendments that are described above. In addition, the insurance companies must be accurately listed along with their A.M. Best Identification Number ("AMB#"). The name, address, and telephone number of the issuing insurance agent or broker must be clearly shown on the certificate of insurance as well.

Due to the space limitations of most standard certificates of insurance, it is expected that an addendum will be attached to the appropriate certificate(s) in order to provide the space needed to show the required information.

In addition to providing certificates of insurance, the Concessioner, upon written request of the Director, shall provide the Director with a complete copy of any of the insurance policies (and all endorsements thereto) required herein to be maintained by the Contract including this Exhibit.

The certificate of insurance shall contain a notation by the Concessioner's insurance representative that the insurance coverage represented therein complies with the provisions of the Contract, including this Exhibit.

SEC. 6. STATUTORY LIMITS

In the event that a statutorily required limit exceeds a limit required herein, the Concessioner must maintain the higher statutorily required limit, which shall be considered as the minimum to be maintained. In the event that the statutorily required limit is less than the limits required herein, the limits required herein apply.

**EXHIBIT E
TRANSITION TO A NEW CONCESSIONER**

SEC 1. GENERAL

The Director and the Concessioner hereby agree that, in the event of the expiration or termination of this Contract for any reason (hereinafter "Termination" for purposes of this Exhibit) and the Concessioner is not to continue the operations authorized under this Contract after the Termination Date, the Director and the Concessioner in good faith will fully cooperate with one another and with the new concessioner or concessioners selected by the Director to continue such operations ("New Concessioner" for purposes of this exhibit), to achieve an orderly transition of operations in order to avoid disruption of services to Area visitors and minimize transition expenses.

SEC. 2. COOPERATION PRIOR TO THE TERMINATION DATE

At such time as the Director may notify the Concessioner that it will not continue its operations upon the Termination of this Contract, the Concessioner, notwithstanding such notification, shall undertake the following tasks.

(a) Continue Operations

The Concessioner shall continue to provide visitor services and otherwise comply with the terms of the Contract in the ordinary course of business and endeavor to meet the same standards of service and quality that were being provided previously with a view to maintaining customer satisfaction.

(b) Continue Bookings

(1) The Concessioner shall continue to accept all future bookings for any hotel, lodging facilities, or other facilities and services for which advance reservations are taken. The Concessioner shall not divert any bookings to other facilities managed or owned by the Concessioner or any affiliate of the Concessioner. The Concessioner shall notify all guests with bookings for any period after the Termination Date that the New Concessioner will operate the facilities and services.

(2) Promptly following notification to the Concessioner by the Director of the selection of the New Concessioner, the Concessioner shall provide the New Concessioner with a copy of Concessioner's reservation log for visitor services as of the last day of the month prior to the selection of the New Concessioner. The Concessioner thereafter shall update such log on a periodic basis (but no less frequently than 30 days) until the Termination Date. The reservation log shall include, without limitation, the name of each guest, and the guest's address, contact information, dates of stay, rate quoted, amount of advance deposit received, and confirmation number, if applicable.

(c) Designating a Point of Contact and Other Actions

(1) The Concessioner shall designate one of the Concessioner's executives as the point of contact for communications between the Concessioner and the New Concessioner.

(2) The Concessioner shall provide the New Concessioner with access to all Concession Facilities, including "back-of-house areas". The Concessioner also shall provide the New Concessioner copies of the keys to all Concession Facilities.

(3) The Concessioner shall provide the Director and the New Concessioner full access to the books and records, licenses, and all other materials pertaining to all Concession Facilities and the Concessioner's operations in general.

(4) The Concessioner shall provide the Director and the New Concessioner with copies of all maintenance agreements, equipment leases (including short-wave radio), service contracts, and supply contracts, including

contracts for on-order merchandise (collectively "contracts"), and copies of all liquor licenses and other licenses and permits (collectively "licenses").

(5) The Concessioner shall allow the New Concessioner to solicit and interview for employment all of the concessioner's salaried and hourly employees, including seasonal employees, through a coordinated process implemented by the Concessioner.

(6) The Concessioner shall not enter into any contracts or agreements that would be binding on any Concession Facilities or concession operations in general after the Termination Date without the prior written agreement of the New Concessioner.

(d) Financial Reports

Within 30 days after receipt of the notification of the selection of the New Concessioner, The Concessioner shall provide the New Concessioner with a financial report with respect to the operation of the Concession Facilities and the Concessioner's operations in general as of the last day of the month prior to receipt of such notification. The Concessioner, thereafter, shall update such financial report on a periodic basis (but no less frequently than 30 days) until the Termination Date. Such financial report shall include, at a minimum: a balance sheet for the Concession Facilities, if any; a schedule of pending accounts payable; and a schedule of pending accounts receivable.

(e) Personal Property List

The Concessioner shall provide the New Concessioner with a complete, detailed, and well-organized list of physical inventory, supplies, and other personal property owned or leased by the Concessioner in connection with its operations under the Contract (including a list of such items that are on order) The Concessioner must provide the list to the New Concessioner within 30 days following receipt of the notification of the selection of the New Concessioner. The Concessioner, thereafter, shall update the list on a monthly basis. The Concessioner shall designate those items that the Concessioner believes are essential to maintaining the continuity of operations or the special character of the concession operations. The Concessioner shall assist the New Concessioner in reviewing and validating the list.

(f) Other Information and Reports

The Concessioner shall provide the New Concessioner with all other information and reports as would be helpful in facilitating the transition, including, without limitation, a list of maintenance records for the Concessioner's operations for the period of one year prior to notification of the selection of the New Concessioner. The Concessioner must also provide complete information on the following to the New Concessioner: utilities, including gas and electric; telephone service; water service; and specific opening and closing procedures. The Concessioner must provide all such information within 30 days after receipt of notification of the selection of the New Concessioner and update the information periodically (but no less frequently than 30 days) until the Termination Date.

(g) Other Cooperation

The Concessioner shall provide the Director and the New Concessioner with such other cooperation as reasonably may be requested.

SEC. 3. COOPERATION UPON THE TERMINATION DATE

Upon the Termination Date, the Concessioner shall undertake the following activities.

(a) Transfer of Contracts and Licenses

The Concessioner shall cooperate with the transfer or assignment of all contracts and licenses entered into by the Concessioner that the New Concessioner elects to assume.

(b) Reservation Systems

The Concessioner shall cooperate with the transfer of reservation information by:

- (i) Providing the New Concessioner with an update of the reservation log through the Termination Date;
- (ii) Disconnecting its operations from the Concessioner's centralized reservation system, if any; and
- (iii) Assisting the New Concessioner in transitioning to the New Concessioner's reservation system.

(c) Fees and Payments

No later than 10 days after the Termination Date, the Concessioner shall provide the Director with an itemized statement of all fees and payments due to the Director under the terms of the Contract as of the Termination Date, including, without limitation, all deferred, accrued, and unpaid fees and charges. The Concessioner, within 10 days of its delivery to the Director of this itemized statement, shall pay such fees and payments to the Director. The Concessioner and the Director acknowledge that adjustments may be required because of information that was not available at the time of the statement.

(d) Access to Records

The Concessioner shall make available to the Director for the Director's collection, retention, and use, copies of all books, records, licenses, permits, and other information in the Concessioner's possession or control that in the opinion of the Director are related to or necessary for orderly and continued operations of the related facilities and services, notwithstanding any other provision of this Contract to the contrary.

(e) Removal of Marks

The Concessioner shall remove (with no compensation to Concessioner) all items of inventory and supplies as may be marked with any trade name or trademark belonging to the Concessioner within 30 days after Termination.

(f) Other Cooperation

The Concessioner shall provide the Director and the New Concessioner with such other cooperation as reasonably may be requested.

EXHIBIT F
INTELLECTUAL PROPERTY LICENSED MARKS

- **Sleeping Bear Dunes**
- **Sleeping Bear Dunes National Lakeshore**
- **Manitou Islands**
- **South Manitou Island**
- **North Manitou Island**